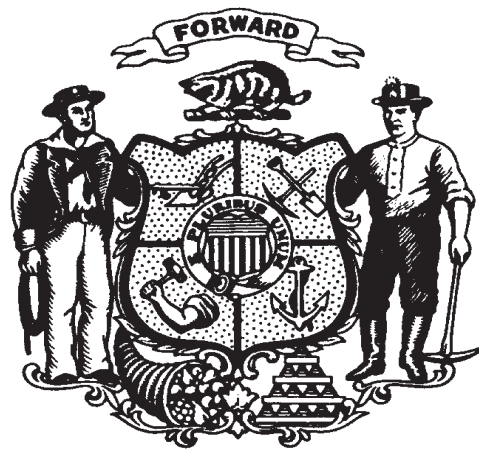


Wisconsin Administrative Register

No. 698

Notice to
Subscribers Inside!



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NOTICE TO SUBSCRIBERS

Printing of Administrative Code and Register Will End January 1, 2015

As required by 2013 Wisconsin Act 20, state-sponsored printing and distribution of the Wisconsin Administrative Code and Register will end January 1, 2015, and the Code and Register will become electronic-only publications.

Important points:

- The LRB will continue to publish the Code and Register at their present locations on the Legislature's and Legislative Reference Bureau's Internet sites.
- Publication of the Register will occur every Monday rather than the current practice of bimonthly publication.
- Updated and new Code chapters, with insertion and removal instructions, will still be published in the last Register of each month.

Code chapters will be published in the Register as PDF files in the exact format as they are currently printed, including page numbers.

Users can continue loose-leaf notebook use by printing chapters to 3-hole punch paper from any printer or by making arrangements with commercial printers. (Notebooks will no longer be available from the state and the notebook volume for insertion will no longer be designated for published chapters.)

- The format for Internet publication of the Code will not change. The Code will continue to be published in its entirety in both HTML and PDF formats and updated on the first day of each month to reflect changes published in the most recent end-of-month Register.
- An Email notice system is being developed to alert users to changes in only those rules and rulemaking notices that are of interest to the user. RSS feeds providing notice of new Registers and changes to the whole Code, Code chapters grouped by agency, and individual Code chapters are currently available. (For more information on RSS feeds see <https://docs.legis.wisconsin.gov/feed>.) Details on the email notice system will be published in future Registers prior to January 1, 2015.
- The cost of all subscriptions and renewals will be prorated to January 1, 2015 by DOA.

Direct questions on Internet publication to:

Bruce Hoesly (608) 266-7590, bruce.hoesly@legis.wi.gov

Direct questions on subscriptions to:

Dept. of Administration, Office of Document Sales, (608) 266-3358

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Emergency Rules Now in Effect

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Beginning with rules filed with the Legislative Reference Bureau in 2008, the Legislative Reference Bureau will assign a number to each emergency rule filed, for the purpose of internal tracking and reference. The number will be in the following form: EmR0801. The first 2 digits indicate the year of filing and the last 2 digits indicate the chronological order of filing during the year.

Administration (2)

1. EmR1309 — The Department of Administration hereby adopts an order to create **Chapter Adm 93**, relating to the community development block grant program.

The statement of scope for this rule, SS 041–13, was approved by the Governor on April 15, 2013, and published in Register No. 688 on April 30, 2013, and approved by the Department of Administration Secretary, Mike Huebsch, effective May 13, 2013. This emergency rule was approved by the Governor on June 19, 2013.

Finding of Emergency

Each year the federal government makes funding available to the several states for economic and housing development through a program known as the Community Development Block Grant Program (CDBG). The CDBG is governed under 42 USC 5301 to 5319 and 24 CFR Part 570, and is administered by the US Department of Housing and Urban Development (HUD). Since the dissolution of the Wisconsin Department of Commerce, the Wisconsin Department of Administration (DOA) has received CDBG grants from HUD, and entered into agreements with the Wisconsin

Economic Development Corporation (WEDC) for the administration of those funds. Under this arrangement, state administrative code Chapter Commerce 108 was unneeded, as WEDC operated under substantially similar internal policies. Recently, DOA and WEDC have mutually determined that the expertise of DOA is better suited to administration of CDBG funds, while the expertise of WEDC is best suited to consultation with localities and businesses seeking to access CDBG funds. The parties intend to formalize the transfer of administrative responsibility of CDBG funds to DOA shortly. Consequently, it is imperative for the welfare of the State of Wisconsin that administrative code provisions concerning the CDBG program be made.

Filed with LRB: June 28, 2013
Publication Date: July 1, 2013
Effective Dates: July 1, 2013 through November 27, 2013
Hearing Date: November 18, 2013
Extension Through: March 27, 2014

2. EmR1321 — The Department of Administration hereby adopts an order to repeal **section Adm 2.14 (2) (vr) c.**; to renumber and amend **section Adm 2.14 (2) (v) 9. a. and b.**; to amend **sections Adm 2.02 (1) (a), 2.04 (1), 2.04 (2), (3), (5), and (7), 2.07 (2), 2.08 (1) and (1) (d), 2.11, 2.14 (2), (2) (v), (2) (vm) and (2) (vm) 5.**; and to create **sections Adm 2.03 (3m), (3r) and (6m), 2.04 (1m), (2m), (2r), (2z), (9), and (10), and 2.14 (2) (vm) and (2) (vm) 5.**

The statement of scope for this rule, SS 131–13, was approved by the Governor on October 8, 2013, and published in Register No. 694 on October 31, 2013, and approved by Department of Administration Secretary Mike Huebsch on November 13, 2013. This emergency rule was approved by the Governor on November 21, 2013.

Finding of Emergency

Since 1979 the legislature has vested the department of administration with the responsibility and authority to manage various state buildings and grounds, including those of the Wisconsin state capitol. S. 16.84 (1), Stats. Since 1979, the department has permitted the use of these buildings and grounds for the free discussion of public questions and other purposes, so long as such uses did not interfere with the prime uses of these facilities, or otherwise infringe on interests of the state. s. 16.845, Stats., and s. Adm 2.04.

Each year, the Wisconsin state capitol police issue nearly 500 permits for the use of various state facilities. Permits are used for a variety of purposes, whether political, non-political, charitable, or commercial. Permits are issued regardless of political party, affiliation, or content. Permits are given to any person free of charge.

Occupation of the capitol rotunda and other areas has caused disruptions to the properly permitted events and normal government activities, including but not limited to, a Red Cross blood drive, a high school science exhibit, school group tours, general public tours, and legislative committee meetings and sessions. The state does not refuse permits for the lawful and safe use of state facilities by any person or persons, and the state cannot allow any person or persons to occupy the capitol in disregard of the rights of permit holders, public employees, or visitors. It is imperative that the

department gain compliance in order to protect the public safety and welfare.

On October 24, 2013, a lawsuit was dismissed based upon a stipulation of and settlement agreement between the parties. The department is obligated under the settlement agreement to advance certain changes in procedure. The department seeks to fulfill its obligations in a timely manner, which is not possible without engaging in the emergency rule process.

Filed with LRB: November 26, 2013
Publication Date: November 27, 2013
Effective Dates: November 27, 2013 through April 25, 2014
Hearing Date: February 21, 2014

Agriculture, Trade and Consumer Protection (4)

1. EmR1315 — The state of Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (e)**, relating to the quarantines of Dodge, Douglas, and Winnebago counties for emerald ash borer.

This emergency rule was approved by the Governor on August 29, 2013.

The blanket statement of scope for this rule, SS 0088–12, was approved by the Governor on November 8, 2012, published in Register No. 683, on November 30, 2012, and approved by the Board of Agriculture, Trade & Consumer Protection (as required by s. 227.135 (2), Stats.) on December 18, 2012.

Finding of Emergency

The United States Department of Agriculture — Animal and Plant Health Inspection Service (“APHIS”) positively identified Emerald Ash Borer (“EAB”) in Watertown, Dodge County on August 1, 2013; in Black Wolf township, Winnebago County on August 6, 2013; and subsequently in Superior, Douglas County on August 13, 2013. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Dodge, Douglas, and Winnebago counties but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

DATCP is adopting this rule as a temporary emergency rule, pending completion of federal quarantine regulations. DATCP does not anticipate completing a permanent rule.

Filed with LRB: September 11, 2013
Publication Date: September 11, 2013
Effective Dates: September 11, 2013 through February 7, 2014
Hearing Date: October 11, 2013

2. EmR1322 — The state of Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (f)**, relating to the quarantine of Dane County for the emerald ash borer.

This emergency rule was approved by the Governor on December 10, 2013.

The blanket scope for this rule, SS 141–13, was approved by the Governor on October 30, 2013 published in register No. 695 on November 14, 2013, and approved by the Board of Agriculture, Trade & Consumer Protection on December 10, 2013.

Finding of Emergency

The United States Department of Agriculture — Animal and Plant Health Inspection Service (“APHIS”) positively identified Emerald Ash Borer (“EAB”) in Madison, Dane County on November 22, 2013. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Dane County but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of this county to areas of Wisconsin or other states that are not infested with EAB.

DATCP is adopting this rule as a temporary emergency rule, pending completion of federal quarantine regulations. DATCP does not anticipate completing a permanent rule.

Filed with LRB: December 17, 2013
Publication Date: December 18, 2013
Effective Dates: December 18, 2013 through May 16, 2014
Hearing Date: January 13, 2014

3. EmR1325 — The Wisconsin Department of Agriculture, Trade and Consumer Protection adopts the following emergency rule to repeal **sections ATCP 136.02 (4) (d) and 136.10 (2) (c), (3) (a) 2., and (b) 4.,** and to amend **sections ATCP 136.02 (4) (g) (Note), (5), (7), (8) (a), 136.08 (1), (7) (Note), and 136.12 (1) (b) (Note) and (2) (Note),** relating to mobile air conditioners, reclaiming or recycling refrigerant.

This emergency rule was approved by the Governor on December 23, 2013.

The scope statement for this rule, SS 122–13, was approved by the Governor on September 20, 2013 published in register No. 694 on October 14, 2013, and approved by the Board of Agriculture, Trade & Consumer Protection on November 13, 2013.

Finding of Emergency

In Wisconsin, businesses that repair mobile air conditioners must register with the department and pay an annual registration fee of \$120 for each registered location. In addition, each technician working on mobile air conditioners at these businesses must attend a DATCP–approved training course and pass an exam.

A recent statutory change harmonized Wisconsin’s state mobile air conditioner law with federal law, and Wisconsin’s unique training course content is no longer applicable.

The registration year begins on March 1 of each year. By that date, all mobile air conditioning businesses and technicians must be registered with the department or pay a surcharge fee.

DATCP has determined that it has sufficient alternative revenue sources to fund the mobile air conditioning program and is undergoing rule–making to permanently eliminate the \$120 registration fee. However, the rule–making will not be effective for the upcoming registration year that begins March 1, 2014. The department has also determined that its technician training requirements can be modified due to

recent changes in state statute that harmonize Wisconsin law with federal law. Technicians who complete the federally approved training course will now meet Wisconsin's training requirement.

This temporary emergency rule is necessary to protect the welfare of the small businesses that would otherwise pay the registration fee. In addition, the emergency rule is needed to protect the welfare of small businesses and their employees by eliminating an unnecessary training requirement.

Filed with LRB: December 27, 2013
Publication Date: December 31, 2013
Effective Dates: December 31, 2013 through May 29, 2014

4. EmR1402 (DATCP Docket No. 13–R–17) — The Wisconsin department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **sections ATCP 161.50 (3) (f), 161.60, and 161.62 (1) (intro.)**, relating to the “grow Wisconsin dairy processor” grant program created under ss. 20.115 (4) (dm) and 93.40 (1) (g), Stats.

This emergency rule was approved by the Governor on January 10, 2014.

The scope statement for this rule, SS 140–13, was approved by the Governor on October 29, 2013, published in register No. 695 on November 14, 2013, and approved by the Board of Agriculture, Trade & Consumer Protection on December 10, 2013.

Finding of Emergency

Enactment of a rule is necessary to establish criteria the department will use to make determinations for grants, loans or other forms of financial assistance to dairy processors to promote and develop the dairy industry. An emergency rule is needed to ensure that funds are used to assist dairy producers during the first year of the program as permanent rules cannot be adopted in time to provide the basis for grant and loan determinations during that first year of the program.

Filed with LRB: January 21, 2014
Publication Date: January 20, 2014
Effective Dates: January 20, 2014 through June 18, 2014

Employment Relations Commission

EmR1310 — The Wisconsin Employment Relations Commission hereby creates **Chapters ERC 70, 71, and 80**, relating to annual certification elections.

This emergency rule was approved by the Governor July 3, 2013.

The statement of scope for this rule, SS 045–13, was approved by the Governor on April 19, 2013, published in Register 689, on May 14, 2013, and approved by the Wisconsin Employment Relations Commission on June 3, 2013.

Finding of Emergency

An emergency exists because the public peace, health, safety and welfare necessitate putting these rules into effect so that the Wisconsin Employment Relations Commission can meet its obligation to conduct annual certification elections as required by ss. 111.70 (4) (d) 3. b. and 111.83 (3) (b), Stats.

Filed with LRB: July 15 2013

Publication Date: July 13, 2013
Effective Dates: July 13, 2013 through December 9, 2013
Extension Through: April 8, 2014

Insurance (2)

1. EmR1306 — The Commissioner of Insurance adopts an order to amend **sections Ins 17.01 (3) and 17.28 (3) (c)** and to repeal and recreate **section Ins 17.28 (6)**, Wis. Admin. Code, relating to Injured Patients and Families Compensation Fund Annual Fund and Mediation Panel Fees, and ISO code amendments for the fiscal year beginning July 1, 2013, and affecting small business.

This emergency rule was approved by the Governor on June 4, 2013.

The statement of scope for this rule, SS 042–13, was approved by the Governor on April 16, 2013, published in Register No. 688, on April 30, 2013, and approved by the Commissioner on May 10, 2013.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes must be in place with an effective date prior to July 1, 2013, in order for the new fiscal year assessments to be issued in accordance with s. 655.27 (3), Wis. Stats. The permanent rule-making process cannot be completed prior to the effective date of the new fee schedule. The fiscal year fund fees were established by the Board of Governors at the meeting held on December 19, 2012, and the mediation panel fees were established by the Board of Governors at the meeting held on March 20, 2013.

Filed with LRB: June 10, 2013
Publication Date: June 12, 2013
Effective Dates: June 12, 2013 through November 8, 2013
Hearing Date: July 23, 2013
Extension Through: March 8, 2014

2. EmR1314 — The Commissioner of Insurance proposes an order to create **Chapter Ins 6 subch. II, subch. II (title), and sections Ins 6.91 to 6.98**, relating to navigators, nonnavigator assisters, and related entities and affecting small business.

The statement of scope for this rule SS 078–13, was approved by the Governor on July 1, 2013, published in Register No. 691, on July 15, 2013, and approved by the Commissioner on July 26, 2013. This emergency rule was approved by the Governor on August 30, 2013.

Finding of Emergency

In accordance with s. 623.98, Stats., the commissioner may promulgate rules under ss. 227.24 (1) (a) and (3), Stats., without providing evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety, or welfare and without a finding of emergency. The commissioner intends to publish the proposed rule sufficiently in advance of October 1, 2013 to permit proper licensing, certification, and training of navigators and nonnavigator assisters and to permit proper registration of navigator and nonnavigator assister entities. The

commissioner intends to promulgate permanent rules close in time to the emergency rules so not to create a gap in requirements.

Filed with LRB: September 5, 2013
Publication Date: September 10, 2013
Effective Dates: September 10, 2013 through February 6, 2014
Hearing Date: September 27, 2013
Extension Through: April 7, 2014

Natural Resources (5)

Fish, Game, etc., Chs. NR 1—

1. EmR1210 (DNR # WM–09–12(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 10.001 (25c), 10.02 (1), 10.06 (5) and (8) (intro.), 10.07 (2) (b) 2., 10.07 (2m) (intro.) and (e) (intro.), 10.07 (2m) (f) (intro.), 10.09 (1), 10.13 (1) (b) 9., 10.13 (1) (b) 15., 10.13 (1) (b) 16., 10.145 (intro), 10.145 (3) to (8), 12.10 (intro.), 12.10 (1) (a) 4., 12.10 (1) (b) 2., 12.15 (13) and 19.25** and to create **sections NR 10.001 (22q), 10.001 (23a), 10.001 (23am), 10.001 (23b), 10.001 (26g), 10.001 (33), 10.01 (3) (j), 10.07 (1) (m), 10.07 (2m) (em), 10.07 (2m) (g) 3., NR 10.07 (4), 10.13 (1) (b) 15m., 10.13 (1) (b) 18., 10.145 (1m), (1u) and Note, sections NR 10.16 (5), 10.295, 12.15 (11) (e), 12.60 to 12.63, 12.64 (1) (a) and (b) (intro.) 1., 12.64 (1) (b) 2. and 3., 12.64 (1) (b) 4. and 5., 12.64 (2) (a) to (c), 12.64 (2) (d), 12.64 (3) and 12.65**, relating to the wolf hunting and trapping season and regulations and a depredation program.

This emergency rule was approved by the Governor on August 10, 2010.

The statement of scope for this rule, SS 023–12, was approved by the Governor on April 12, 2012, published in Register No. 676, on April 30, 2012, and approved by the Natural Resources Board on May 23, 2012.

Finding of Emergency

A non–statutory provision, SECTION 21, of 2011 ACT 169 requires the department to submit rules necessary for implementation or interpretation and establishes that the department is not required to make a finding of emergency.

Filed with LRB: August 15, 2012

Publication Date: August 18, 2012

Effective Dates: August 18, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

2. EmR1215 (DNR # WM–16–12(E)) — The Wisconsin Natural Resources Board proposes an order to repeal and recreate **section NR 10.01 (3) (h) 1.**, relating to the coyote hunting season.

This emergency rule was approved by the Governor on August 30, 2012.

The statement of scope for this rule, SS 038–12, was approved by the Governor on May 29, 2012, published in Register No. 678, on June 14, 2012, and approved by the Natural Resources Board on June 27, 2012.

Finding of Emergency

A non–statutory provision, Section 21, of 2011 ACT 169 requires the department to submit rules necessary for

implementation or interpretation and establishes that the department is not required to make a finding of emergency.

Filed with LRB: September 14, 2012

Publication Date: October 1, 2012

Effective Dates: October 1, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

3. EmR1319 (DNR # WM–22–13(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 10.275 (intro.) and 45.09 (1)** and to create **sections NR 10.13 (Note) and 10.275**, relating to hunting and trapping in state parks.

This rule was approved by the Governor on October 31, 2013.

The statement of scope for this emergency rule, SS 083–13, was approved by the Governor on July 15, 2013, published in Register No. 691 on July 31, 2013 and approved by the Natural Resources Board on August 14, 2013.

Finding of Emergency

The department finds that putting this rule into effect prior to the time it would take effect using the permanent rule process is necessary to protect the public safety and welfare. By restricting gun and archery hunting to certain areas, and trapping to certain areas and methods, this rule will prevent those activities in locations where they may jeopardize the safety and welfare of visitors to the Wisconsin State Park System.

Filed with LRB: November 7, 2013

Publication Date: November 15, 2013

Effective Dates: November 15, 2013 through April 13, 2014

4. EmR1320 (DNR # FH–27–13(E)) — The Wisconsin Natural Resources Board proposes an order to create **Chapter NR 85**, relating to development of a competitive grant program for cities, villages, towns, counties, federally recognized Indian tribes or bands located in this state, and fish farms in order to increase the capacity to raise walleye for stocking in Wisconsin waters.

This rule was approved by the Governor on November 8, 2013.

The statement of scope for this emergency rule, SS 104–13, was approved by the Governor on August 12, 2013, published in Register No. 692 on September 1, 2013 (August 31, 2013), and approved by the Natural Resources Board on September 25, 2013.

Finding of Emergency — Exemption

2013 Wisconsin Act 20, the 2013–15 state budget, included the following nonstatutory language: The department of natural resources may promulgate emergency rules under section 227.24 of the statutes implementing sections 29.739 and 29.740 of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated for walleye population maintenance and enhancement grants remain in effect until June 30, 2016, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating this rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

Filed with LRB: November 14, 2013

Publication Date: November 21, 2013

Effective Dates: November 21, 2013 through June 30, 2016, or the date on which permanent rules take effect, whichever is sooner.

Hearing Date: December 12, 2013 and December 19, 2013

5. EmR1401 (DNR # FH-26-13(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 20.20 (73) (n) 4. and 25.06 (1) (a)**, Wis. Adm. Code, relating to lake trout harvest limits in Lake Superior.

This rule was approved by the Governor on December 30, 2013.

The statement of scope for this rule, SS 108-13, was approved by the Governor on August 13, 2013, published in Register No. 692 on August 31, 2013, and approved by the Natural Resources Board on September 25, 2013.

Finding of Emergency

Pursuant to s. 227.4, Stats., the department finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The welfare of state-licensed commercial fishers, tribal commercial fishers, recreational anglers, and associated businesses is threatened by a decline in the lake trout population in the Apostle Islands vicinity of Lake Superior. The continued, persistent decline in lake trout population abundances and predicted further declines necessitate the current reductions in order to ensure a sustainable lake trout fishery over the long-term. Lake trout harvest limits were negotiated in October 2013 among the Department of Natural Resources and the Red Cliff and Bad River Bands of Lake Superior Chippewa and those changes must be ordered through administrative code. This emergency rule is needed to preserve the public welfare.

Filed with LRB: January 14, 2014

Publication Date: January 13, 2014

Effective Dates: January 13, 2014 through June 11, 2014

Public Instruction

EmR1324 — The State Superintendent of Public Instruction hereby proposes to amend **sections PI 5.02 (6) and (11m), 5.035 (6), and 5.04**, relating to high school equivalency diplomas and certificates of general educational development.

Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11-CV-4573, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope or this rule.

The scope statement for this rule, SS 093-13, was published in Register No. 692, on August 14, 2013, and approved by State Superintendent Tony Evers on August 27, 2013.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or

welfare. A statement of the facts constituting the emergency is:

The number of subtests and the passing scores for the General Educational Development (GED) Test will be changing in January 2014 when a new test is implemented by the GED Testing Service.

Unless the rule is changed to reflect these new subtests and passing scores, the Department may be prevented from issuing credentials for test takers who pass the GED Test because the required passing scores will be incorrect.

Filed with LRB: December 27, 2013

Publication Date: December 27, 2013

Effective Dates: December 27, 2013 through May 25, 2014

Hearing Date: February 24, 2014

Revenue

EmR1323 — The Wisconsin Department of Revenue hereby adopts an emergency rule interpreting s. 77.58 (1) (a) and (5), Stats., and amending **section Tax 11.93**, relating to sales tax filing frequency.

This emergency rule was approved by the Governor on November 15, 2013.

The scope statement for this rule, SS 100-13, was approved by the Governor on August 2, 2013, published in Register No. 692 on August 31, 2013, and approved by the Secretary of Revenue on September 10, 2013.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that the attached rule order is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Section 77.58 (1), Stats., provides that retailers must file sales tax returns quarterly, except as provided in s. 77.58 (1) (a) and (b), Stats., which allows for sales tax returns to be filed monthly.

Section 77.58 (5), Stats., provides that the department may require returns and payments on the amount of taxes for other than a quarterly period if it deems it necessary to ensure payment to or facilitate the collection by the state of the amount of taxes. The department has provided for annual sales tax returns by rule in s. Tax 11.93 (1) for retailers that have an annual tax liability of \$300 or less.

Because 2013 Wis. Act 20 doubles the threshold upon which a monthly sales tax return is required to be filed (\$600 to \$1200), s. Tax 11.93 (1) should also be changed to reflect a similar increase in the threshold upon which an annual sales tax return can be filed.

As the statutory change to the monthly filing standard goes into effect on January 1, 2014, the corresponding change to the annual filing standard in s. Tax 11.93 (1) should also go into effect on January 1, 2014. There is insufficient time for the permanent rule to be effective on January 1, 2014.

Filed with LRB: December 19, 2013

Publication Date: January 1, 2014

Effective Dates: January 1, 2014 through May 30, 2014

Hearing Date: January 27, 2014

Safety and Professional Services (2)

Professional Services, Chs. SPS 1–299

1. EmR1307 — The Wisconsin Department of Safety and Professional Services adopts an order to repeal **section SPS 81.04 (1) (c) 3. and 4.**, and to amend **section SPS 81.04 (2)**, relating to reciprocity.

This emergency rule was approved by the Governor on May 20, 2013.

The statement of scope for this rule, SS 012–13, was approved by the Governor on January 28, 2013, published in Register No. 686 on February 14, 2013, and approved by the Department of Safety and Professional Services on February 28, 2013.

Finding of Emergency

The Department of Safety and Professional Services finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows:

Title XI of the Federal Financial Institutions Reform and Recovery Enforcement Act of 1989, as amended by the Dodd–Frank Act of 2010, dictates reciprocity requirements for real estate appraisers in each state. The federal body that oversees reciprocity requirements is the Appraisal Subcommittee (ASC). Currently, Wis. Admin. Code s. SPS 81.04 is not in compliance with the federal legislation. The Code must be brought into compliance by July 1, 2013. At that time, the ASC will conduct an audit to determine which states are in compliance. If Wisconsin is designated “out of compliance,” then federally regulated financial institutions may not engage a Wisconsin certified or licensed appraiser to perform an appraisal of property for a federally related transaction and other states will not be required to recognize Wisconsin credentialed appraisers seeking reciprocity. In order to implement the federally mandated reciprocity requirements before July 1, 2013, an emergency rule is needed.

Filed with LRB: June 12, 2013
Publication Date: June 18, 2013
Effective Dates: June 18, 2013 through November 14, 2013
Extension Through: March 14, 2014

2. EmR1308 — The Wisconsin Department of Safety and Professional Services adopts an order to create **section SPS 34.04 (2) (a) 4.**, relating to training of firearms instructors for private security personnel, private detectives, and private investigators or special investigators, and affecting small business.

This emergency rule was approved by the Governor on May 29, 2013.

The statement of scope for this rule, SS 080–12, was approved by the Governor on October 2, 2012, published in Register No. 682 on October 31, 2012, and approved by the Department of Safety and Professional Services on December 4, 2012.

Finding of Emergency

The Department of Safety and Professional Services (DPS) finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows.

Under section SPS 34.02 (1), private security personnel, private detectives, and private investigators or special investigators, who are seeking a firearms permit from the Department must obtain a certificate of firearms proficiency. Section SPS 34.02 (2) mandates that the certification be received from a Department–approved firearms–proficiency certifier pursuant to section SPS 34.04.

Section SPS 34.04 currently accepts only those certifier applicants who have received training as a police or security firearms instructor and who have either (1) current approval as a firearms instructor by the Wisconsin Law Enforcement Standards Board (LESB); (2) current certification as a law enforcement firearms instructor by the National Rifle Association, Inc., (NRA) or; (3) approval on or after January 1, 1995, as a firearms instructor by the LESB or NRA and have completed a refresher course presented by a regional training school approved by the LESB or the NRA.

Due to enactment of 2011 Wisconsin Act 35 (commonly referred to as the concealed carry law), which became effective on November 1, 2011, there is a greater need for additional entities who can provide training and approve applicants as firearms proficiency certifiers. Section 175.60 (4) of the Statutes currently allows technical colleges, colleges, and universities to provide this training for concealed–carry purposes. No such provision is made as it relates to private security personnel, private detectives, and private investigators or special investigators, for carrying a weapon openly. Moreover, the training needed for DPS firearms certifiers differs significantly from that needed and provided by the LESB curriculum and under 2011 Act 35. To that end, a new standard needs to be developed and implemented, separate and distinct from the LESB standards. Because the need to approve applicants for firearm proficiency certifiers is immediate and pressing, emergency rules are warranted.

Filed with LRB: June 13, 2013
Publication Date: June 13, 2013
Effective Dates: June 13, 2013 through November 9, 2013
Hearing Date: August 6, 2013
Extension Through: March 9, 2014

Safety and Professional Services — Controlled Substances Board

EmR1318 — The Controlled Substances Board adopts an order to create **section CSB 2.36**, relating to scheduling controlled substances.

This emergency rule was approved by the Governor on September 20, 2013.

The statement of scope for this rule, SS 062–13, was approved by the Governor on May 29, 2013, published in Register 690 on June 15, 2013, and approved by the Controlled Substances Board on July 15, 2013.

Finding of Emergency

The Controlled Substances Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The Brown County District Attorney’s office has provided the Controlled Substances Board with information relevant to emergency scheduling and the commencement of a prosecution concerning a controlled substance analog. UR–144, XLR–11, and AKB48 are pharmacologically

similar to Schedule I substances THC and JWH-018. By sharing pharmacological similarities with the Schedule I substances, synthetic cannabinoids pose a risk both to the individual user and other affected individuals. UR-144, XLR-11, and AKB48 are being marketed as “legal” alternatives to marijuana. This characterization (and the reputation as potent herbal intoxicants) has increased their popularity and prevalence.

The Controlled Substances Board finds that scheduling of UR-144, XLR-11, and AKB48 on an emergency basis is necessary to avoid an imminent hazard to public safety. The substances are not included in any other schedule and no exemption or approval is in effect for the substance under 21 USC 355.

On May 16, 2013, the U.S. Department of Justice Drug Enforcement Administration emergency scheduled UR-144, XLR11, and AKB48 as Schedule I, illegal drugs under the Controlled Substances Act.

Filed with LRB: October 17, 2013
Publication Date: October 13, 2013
Effective Dates: October 13, 2013 through October 12, 2014
Hearing Date: November 11, 2013

Workforce Development

Unemployment Insurance, Chs. DWD 100–150

EmR1316 — The Wisconsin Department of Workforce Development hereby adopts an order to repeal **sections DWD 126.02 (2), (3), and (4), 126.03 (1), 126.04, 126.05, 127.01 (2) (b), (f) to (i), and (3), 127.02 (intro.), (1), (2), (3), and (4), 127.02 (5) and (10), and 127.08**; to renumber and amend **section DWD 126.02 (1)**; to amend **sections DWD 126.01, 126.03 (intro.) and (2), 127 (title), 127.01 (1), (2) (intro.), (a), (c), and (d), 127.02 (7), (9), and (11), 127.04 (title), (1), and (2), 127.05, 127.06 (1), (2), and (3), 127.07 (title) and (1), 128.01 (2) (a), and 129.01 (1) and (2)**; to repeal and recreate **sections DWD 127.01 (2) (j) and 127.07 (2)**; and to create **sections DWD 126.02 (Note), 126.03 (3), (4), (5), (6), and (7), 127.01 (2) (em), 127.02 (12), 127.04 (1m) (e), and 127.06 (1) (c)**, relating to unemployment insurance work registration, work search, and benefit claiming procedures.

This emergency rule was approved by the Governor on September 20, 2013.

The statement of scope for this emergency rule, SS 106–13, was approved by the Governor on August 14, 2013, published in Register No. 692 on August 31, 2013, and approved by the Secretary of Workforce Development on September 11, 2013.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. Statements of the facts constituting the emergency are:

- (1) In order to fulfill the new statutory directives to require claimants for unemployment insurance benefits to increase their number of weekly work search actions from two to at least four;
- (2) In order to simplify the process and compliance with respect to requirements for unemployment insurance claimants to register for work;

- (3) In order to execute the new statutory requirement to request additional information from claimants;
- (4) In order to improve the unemployment insurance trust fund balance and thereby relieve employers of the burden of additional taxation;
- (5) In order to better assist unemployment insurance benefit claimants to obtain gainful employment; and,
- (6) In order to promote the improvement in the Wisconsin economy as a result of the immediate implementation of legislative directives with respect to the unemployment insurance program contained in 2013 Wisconsin Act 20 and 2013 Wisconsin Act 36.

Adoption of the emergency rule will ensure that these legislative directives are implemented within the time-frame envisioned with enactment of 2013 Wisconsin Act 20 and 2013 Wisconsin Act 36.

Filed with LRB: September 25, 2013

Publication Date: September 29, 2013

Effective Dates: September 29, 2013 through February 25, 2014, except that changes to ss. DWD 126.03 and 127.02 take effect after the Secretary determines the Department has the technological ability to implement the changes.

Hearing Date: November 4, 2013

Extension Through: April 26, 2014

Workforce Development

Employment and Training, Chs. DWD 805–830

EmR1317 — The Wisconsin Department of Workforce Development hereby adopts an order to create **Chapter DWD 801**, relating to workforce training grants under the Wisconsin Fast Forward program.

This emergency rule was approved by the Governor on September 20, 2013.

The statement of scope for this rule, SS 109–13, was approved by the Governor on August 15, 2013, published in Register No. 692 on August 31, 2013, and approved by the Department of Workforce Development on September 11, 2013.

Finding of Emergency

The Department of Workforce Development (DWD) finds that an emergency exists and emergency rules are necessary for the immediate preservation of the public peace, health, safety, or welfare. The reason for the emergency is:

DWD proposes to create new rules in Chapter DWD 801 to implement the program of workforce training grants enacted by 2013 Wisconsin Act 9. DWD held a public hearing on the permanent rule for this new program on July 15, 2013, and has made revisions to the text of the proposed permanent rule in response to the comments received. It would now benefit the public welfare to proceed with the rules in emergency form so that the program can begin this fall.

Filed with LRB: September 25, 2013

Publication Date: September 29, 2013

Effective Dates: October 1, 2013 through February 27, 2014

Hearing Date: November 5, 2013

Extension Through: April 28, 2014

Scope Statements

Children and Families

Safety and Permanence, Chs. 35—59

SS 008–14

This statement of scope was approved by the governor on January 30, 2014.

Rule No.

Chapter DCF 40 (create).

Relating to

Review of initial determinations of child abuse or neglect.

Rule Type

Emergency and permanent

1. Finding/Nature of Emergency (for Emergency Rules Only)

Section 48.981 (3) (c), Stats., as affected by 2013 Wisconsin Act 20, creates a new statewide process for appeals of determinations by a county department, the department, or a licensed child welfare agency that a specific person has abused or neglected a child. The statutory changes creating the new appeal process will be effective January 1, 2015. Act 20 directs the department to promulgate rules to specify the procedures for the initial stage of the appeal process. The department expects that an emergency rule will be necessary for these rules to be effective January 1, 2015.

Under s. 227.19 (2), Stats., proposed rules submitted for legislative review after the last day of the legislature's final general–business floorperiod in the biennial session are generally considered received on the first day of the next regular session of the legislature. In this biennium, proposed rules submitted for legislative review after April 3, 2014, will generally be considered received on the first day of the next session in January 2015, and will not be effective until late spring or early summer. The department will be developing the rules with the assistance of a statewide advisory committee.

2. Detailed Description of the Objective of the Proposed Rule

The proposed rules will specify the procedures for review of an initial determination by a county department, the department, or a licensed child welfare agency that a specific person has abused or neglected a child.

3. Detailed Explanation of Statutory Authority for the Rule

Section 48.981 (3) (c) 5m., Stats., as affected by 2013 Wisconsin Act 20, provides that if the county department, department, or licensed child welfare agency makes an initial determination that a specific person has abused or neglected a child, the county department, department, or licensed child welfare agency shall provide that person with an opportunity for a review of that initial determination in accordance with rules promulgated by the department before the county department, department, or licensed child welfare agency

may make a final determination that the person has abused or neglected a child.

4. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

120 hours

5. List with Description of all Entities that may be Affected by the Proposed Rule

County departments of social services, county departments of health and human services, the Bureau of Milwaukee Child Welfare, licensed child welfare agencies, persons seeking to appeal an initial determination that they have abused or neglected a child, and entities who employ or may employ persons who receive an initial determination that they have abused or neglected a child and request review of the determination.

6. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

None

7. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

None or minimal

Contact Person

John Elliott
(608) 266–8988
john.elliott@wisconsin.gov

Transportation

SS 007–14

This statement of scope was approved by the governor on January 9, 2014.

Rule No.

Chapter Trans 515 (revise).

Relating to

Contractual service procurement.

Rule Type

Permanent

1. Finding/Nature of Emergency (for Emergency Rules Only)

N/A

2. Detailed Description of the Objective of the Proposed Rule

The proposed rule change will update existing Wisconsin Administrative Code Chapter Trans 515 to conform with amendments to state statute s. 84.01 (13) made in 2013

Wisconsin Act 20. This proposed rule change will increase the minimum estimated expenditure requiring a cost–benefit analysis from \$25,000 to \$300,000.

3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Presently, the Department of Transportation (Department) conducts a uniform cost–benefit analysis (CBA) on all proposed contractual expenditures estimated to be greater than \$25,000.

The Department proposes to revise Chapter Trans 515 to increase the threshold for completing a CBA from \$25,000 to \$300,000 consistent with recent amendments to Wisconsin Statute s. 84.01 (13).

One alternative is to continue preparing CBAs for contracts more than \$25,000 but below the new \$300,000 threshold. The Department estimates a cost of approximately \$71,000 per year to complete CBAs on all contracts valued between \$25,000 and \$300,000. The Department has been performing CBA on contracts in that cost range since the enactment of 2005 Wisconsin Act 89, and anticipates no additional benefit in completing these cost–benefit analyses for contracts below the \$300,000 statutory threshold.

4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Prior to the enactment of 2013 Wisconsin Act 20 on June 30, 2013, Wisconsin Statute s. 84.01 (13) required the Department to conduct a CBA for expenditures estimated to be greater than \$25,000. Section 1515m of the 2013 Assembly Bill AB 40 (2013 Wisconsin Act 20), published July 1, 2013, amended s. 84.01 (13), Stats., by increasing the value of estimated expenditures requiring a CBA by the Department from \$25,000 to \$300,000. The Department is no longer required to prepare CBAs for contracts having an estimated cost of \$25,000 to \$300,000.

5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

100 Hours

6. List with Description of all Entities that may be Affected by the Proposed Rule

As part of their consultant selection process, the Department's Division of Transportation Investment Management and Division of Transportation System Development will be affected by the proposed rule through workload reduction.

Eliminating the CBA for contracts with estimated expenditures of \$25,000 to \$300,000 may affect the Department's engagement of engineering, consulting, surveying, or other specialized services, although it is unknown whether awards will change, or increase or decrease.

7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

In general, federal law requires construction contracts funded with federal money to be let to the lowest responsible bidder. However, under the "Brooks Act", contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services are negotiated contracts on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices. The Department is unaware of any federal requirement to compare the cost of those services with the cost of providing those services through public employees.

8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

By increasing the CBA threshold to \$300,000, the number of projects and expenditures requiring a CBA would be reduced. As a result, a reduction in Department staff labor hours would be realized. The Department has estimated that the reduced labor costs for Department staff would be approximately \$71,000 per year. No other economic impact is expected.

Contact Person

John Marchewka, P.E. (608) 267–7327.

Submittal of Proposed Rules to Legislative Council Clearinghouse

*Please check the Bulletin of Proceedings — Administrative Rules
for further information on a particular rule.*

Insurance CR 14–008

On January 17, 2014, the Office of the Commissioner of Insurance submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse, in accordance with ss. 227.14 (4m) and 227.15, Stats.

The statement of scope for this rule SS 071–12, was approved by the Governor on September 13, 2012, published in Register No. 681 on September 30, 2012, and approved by the Commissioner on October 15, 2012.

Analysis

These changes will affect sections Ins 2.80 and 50.79, Wis. Adm. Code, relating to reserve and reporting requirements for life and fraternal insurers and affecting small business.

Agency Procedure for Promulgation

The date for the public hearing is February 28, 2014.

Contact Person

A copy of the proposed rule may be obtained from the Web site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, Office of the Commissioner of Insurance, at (608) 264–8110.

For additional information, please contact Richard B. Wicka at (608) 261–6018 or e-mail at richard.wicka@wisconsin.gov in the OCI Legal Unit.

Safety and Professional Services *Professional Services, Chs. 1–299* *General Part I, Chs. 301–319* *Uniform Dwelling Code, Chs. 320–325* *General Part II, Chs. 326–360* *Commercial Building Code, Chs. 361–366* CR 14–010

On January 30, 2014, the Department of Safety and Professional Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 102–13 was approved by the Governor on August 6, 2013, published in Register No. 692 on August 31, 2013, and approved by the Department of Safety and Professional Services on September 16, 2013.

Analysis

Statutory Authority: Sections 101.09 (3) (c), 101.147, 101.178 (3) (a), 101.63 (2) and (2m), 101.654 (1m), 101.73 (5), 101.73 (6), 101.82 (1m), 101.92 (9), 101.96 (2) (c), 101.985 (3), 145.02 (4) (a), 145.15 (2), 145.175, 227.11 (2) (a), 440.974 (2), Wis. Stats.

This proposed rule-making order revises Chapters SPS 131, 132, 133, 134, 135, 305, 323, 332, 334, and 361, relating

to trades licenses, certifications, and registrations of trades credentials; continuing education requirements of home inspectors; and rule changes affected by 2013 Wisconsin Act 20.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 3, 2014, at 1400 East Washington Avenue, Room 121C, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Katie Paff, Department of Safety and Professional Services, Division of Policy Development, (608) 261–4472 and Kathleen.Paff@wisconsin.gov.

Safety and Professional Services — Controlled Substances Board CR 14–009

On January 31, 2014, the Controlled Substances Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statements for this rule, SS076–13 and 077–13, was approved by the Governor on May 7, 2013, published in Register No. 691 on July 14, 2013, and approved by the Controlled Substances Board on August 29, 2013.

Analysis

Statutory Authority: Section 961.335 (8), Wis. Stats.

This proposed rule-making order creates section CSB 3.045 and relates to special use authorization.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 4, 2014, at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, (608) 261–2377.

Safety and Professional Services — Dentistry Examining Board CR 14–011

On January 31, 2014 the Dentistry Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS127–13, was approved by the Governor on October 7, 2013, published in Register No. 694 on October 31, 2013, and approved by the Dentistry Examining Board on January 8, 2014.

Analysis

Statutory Authority: Sections 15.08 (5) (b), 227.11 (2) (a), and 447.02 (2) (d), Wis. Stats.

This proposed rule-making order creates Chapter DE 8, relating to patient dental records.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 5,

2014, at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Jean MacCubbin, Department of Safety and Professional Services, Division of Policy Development, phone (608) 266-0955, email jean.maccubbin@wisconsin.gov.

Rule-Making Notices

Notice of Hearing

Insurance CR 14-008

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Wis. Stats., and the procedures set forth in under s. 227.18, Wis. Stats., the Office of the Commissioner of Insurance (OCI) will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Sections Ins 2.80 and 50.79, Wis. Adm. Code, relating to reserve and reporting requirements for life and fraternal insurers and affecting small business.

Hearing Information

Date: Friday, February 28, 2014
Time: 10:00 a.m., or as soon thereafter as the matter may be reached
Location: OCI, Room 227
 125 South Webster Street
 2nd Floor
 Madison, Wisconsin

Place where Comments are to be Submitted and Deadline For Submission

Written comments can be mailed to:

Timothy L. Cornelius
 Legal Unit — OCI Rule Comment for Rule Ins 071-12
 Office of the Commissioner of Insurance
 PO Box 7873
 Madison WI 53707-7873

Written comments can be hand delivered to:

Timothy L. Cornelius
 Legal Unit — OCI Rule Comment for Rule Ins 071-12
 Office of the Commissioner of Insurance
 125 South Webster St — 2nd Floor
 Madison WI 53703-3474

Comments can be e-mailed to:

Timothy L. Cornelius
Timothy.Cornelius@wisconsin.gov

Comments submitted through the Wisconsin Administrative Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is **4:00 p.m. on March 7, 2014.**

Summary of Proposed Rule and Fiscal Estimate

For a summary of the rule, see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes, a summary of the changes and the fiscal estimate are attached to this Notice of Hearing.

Analysis Prepared by the Office of the Commissioner of Insurance (OCI)

Statutes interpreted

Sections 600.01 and 623.11, Wis. Stats.

Statutory authority

Sections 227.11 (2), 601.41 (3), 601.42, 623.04, and 623.06, Wis. Stats.

Explanation of OCI's authority to promulgate the proposed rule under these statutes

The statutory authority for this rule is ss. 227.11 (2) (a) and 601.41 (3), Wis. Stats., which provide for the commissioner's rule making authority in general. More specifically, ss. 601.42 (2) and 623.04, Wis. Stats., authorize the commissioner to "promulgate rules specifying the liabilities required to be reported by insurers in the financial statements submitted under s. 601.42 (1g) (a) and the methods shall be consistent with s. 623.06."

The changes are authorized pursuant to ss. 623.04 and 601.42, Wis. Stats. Under s. 601.42 (1g) (a), Wis. Stat., the commissioner may request "statements, reports, answers to questionnaires and other information, and evidence thereof, in whatever reasonable form the commissioner designates, and at such reasonable intervals as the commissioner chooses, or from time to time." Under s. 601.42 (2), Wis. Stats., "the commissioner may prescribe forms for the reports under subs. (1g) and (1r) and specify who shall execute or certify such reports. The forms for the reports required under sub. (1g) shall be consistent, so far as practicable, with those prescribed by other jurisdictions."

Related statutes or rules

Sections 623.04, 623.06, 623.15, and 623.21, Wis. Stats., establish accounting and reserve requirements for all insurers authorized to do business in this states.

The plain language analysis and summary of the proposed rule

The proposed rule changes modify the reserve requirements for life and fraternal insurers, and revise and clarify the reporting requirements related to the life reserves. The proposed rule changes also repeal a table that is both outdated and unnecessary.

The proposed rule changes specifically address the four items described below. Changes contemplated in items (a) and (b) would allow Wisconsin regulations to align with the model regulations of the National Association of Insurance Commissioners (NAIC) and the regulations of 18 other states. This consistency would assist domestic insurers specifically, as a significant number of life insurers are doing business in several of the states that have implemented the NAIC model regulations. Changes contemplated in item (c) would ease the administrative burden on the Office of the Commissioner of Insurance (OCI) and foreign insurers doing business in Wisconsin by eliminating an unnecessary filing requirement. Finally, changes contemplated in item (d) would correct an outdated and unnecessary table contained in existing regulation.

(a) Section Ins 2.80, Wis. Admin. Code, establishes the minimum standards for life insurance policy reserves and the method for calculating the reserves. The existing rule includes requirements for a premium deficiency reserve, under which the company can incorporate “X” factors to adjust the mortality factor to a level that is based on the company’s own mortality experience. Currently, under s. Ins 2.80 (4), Wis. Admin. Code, the X factors used in the calculation of deficiency reserves are subject to a minimum of 20% and cannot be decreased in any successive policy years. The changes contemplated for the proposed rule would remove these limits on the X factors. When the rule was first enacted, the limits were included to provide additional conservatism. Subsequently, the industry has demonstrated to the NAIC and OCI that the conservative limits are no longer needed. This change could result in a reduction of reserves for some insurers and would create a more level playing field with the 18 states that have already adopted the NAIC model regulation.

(b) Sections Ins 50.79 (3) (a) and 2.80 (4) (b) 3., Wis. Admin. Code, would be better understood with the addition of clarifying language specifying that the Regulatory Asset Adequacy Issues Summary, a confidential document filed annually with the Commissioner, must disclose the impact of cash flow insufficiencies projected to occur during the interim periods prior to the end of the test period. The current wording is somewhat ambiguous regarding the reporting requirements with respect to deficiencies in interim periods. The anticipated changes would improve the rule by eliminating reporting inconsistencies.

(c) Currently, all licensed life and fraternal insurers must submit a confidential Regulatory Asset Adequacy Issues Summary annually to the Commissioner. Proposed changes to the language of s. Ins 50.79, Wis. Admin. Code, would not require foreign insurers (approximately 450 companies) to submit the Summary unless specifically requested by the Commissioner.

(d) The proposed rule would repeal the table of select mortality factors at the end of ch. Ins 2, Wis. Admin. Code, which is outdated and unnecessary. Since the original rule was adopted a more accurate table contained in a NAIC model rule has been released, and is referenced in two places in s. Ins 2.80 (4), Wis. Admin. Code, pursuant to s. 601.41 (3) (b), Wis. Stats., which specifically grants OCI the authority to cross-reference NAIC tables. The mortality factors for calculating reserves contained within sub. (4) are more accurate, and are the correct factors insurers should use for their reserve calculations. Therefore the table at the end of ch. Ins. 2, Wis. Admin. Code, should be removed as it is likely to cause confusion and incorrect reserve calculations.

Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule

The OCI is not aware of any existing or proposed federal regulations intended to address the activities to be regulated by the proposed rule changes.

Comparison of similar rules in adjacent states as found by OCI

Illinois: 215 ILCS 5/223 (1a) (B) contains reserve and reporting provisions comparable to Wisconsin’s existing rules.

Iowa: IAC § 508.36 and § 512B.23; § 191–47.4 (508), IA Admin. Code contain reserve provisions more stringent than

Wisconsin’s existing rules and reporting requirements comparable to the proposed rule change.

Michigan: MCLS § 500.837 (2013) and § 500.8186 (2013), and R. 500.853, Rule 13, Mich. Admin. Code and R. 500.995, Rule 5, Mich. Admin. Code, contain reserve and reporting provisions comparable to Wisconsin’s existing rules — is considering the adoption of NAIC Model Law 530 with the 2009 revisions comparable to the proposed Wisconsin rule changes.

Minnesota: Minn. R. 2747.0030 Subp. 2., Admin. Code and § 61A.258 Subd. (1), Minn. Stat. (2013) address the use of minimum standards for life insurance policy reserves, the method for calculating the reserves, and the select mortality factor tables for both basic and deficiency reserves using the 2001 CSO mortality table, comparable to Wisconsin’s current law, and Minn. R. 2711.0070, Admin. Code contains reporting requirements comparable to the proposed rule change.

A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule

The OCI is proposing these rule changes based on the NAIC model laws, the financial information of insurers, the need to ensure reporting consistency and the requirement to remove incorrect information. The changes will bring Wisconsin’s requirements for life insurers into line with the NAIC model regulations and those of 18 other states.

Any analysis and supporting documentation that OCI used in support of OCI’s determination of the rule’s effect on small businesses under s. 227.114

Based upon revenue and ownership structure, there may be an effect on small businesses, but any such effect would be minimal. Very few, if any, insurers meet the definition of small businesses, and those that might be assisted by the more uniform, less-stringent reserve and reporting requirements. Any effect on non-insurance small businesses would be beneficial, in that insurance regulations would be more understandable, accurate, and uniform.

Private Sector Fiscal Analysis

For Section Ins 2.80 and 50.79, Wis. Adm. Code, relating to Reserve Requirements for Life and Fraternal Insurers and Affecting Small Business

These rule changes will have no significant effect on the private sector.

A description of the Effect on Small Business

This rule will have little or no effect on small businesses.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Wis. Stat., the proposed rule may have an effect on small businesses. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected:

Life and fraternal insurers licensed in Wisconsin.

b. Description of reporting and bookkeeping procedures required:

None beyond those currently required.

c. Description of professional skills required:

None beyond those currently required.

Oci Small Business Regulatory Coordinator

The OCI small business coordinator is Louie Cornelius, who may be reached at phone number (608) 264–8113 or at e–mail address louie.cornelius@wisconsin.gov.

Agency Contact Person

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264–8110

Email: inger.williams@wisconsin.gov

Address: 125 South Webster St – 2nd Floor, Madison WI 53703–3474

Mail: PO Box 7873, Madison, WI 53707–7873

Proposed Rule Changes

SECTION 1. Ins 2.80 (4) (b) 3. **b. and c., are repealed.**

SECTION 2. Ins 2.80 (4) (b) 3. **g. and i., are amended to read:**

Ins 2.80 (4) (b) 3. g. The appointed actuary may decrease X at any valuation date as long as X ~~does not decrease in any successive policy years and as long as it continues to meet all the requirements of this subdivision.~~

Ins 2.80 (4) (b) 3. i. If X is less than 100% at any duration for any policy, the appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of s. Ins 50.78; the appointed actuary shall disclose in the Regulatory Asset Adequacy Issues Summary the impact of the insufficiency of assets to support the payment of benefits and expenses and the

establishment of statutory reserves during one or more interim periods; and the appointed actuary shall annually offer an opinion for all policies subject to this section as to whether the mortality rates resulting from the application of X meet the requirements of this subdivision. This opinion shall be supported by an actuarial report, subject to appropriate actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. It shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

SECTION 3. Chapter Ins. 2 Table of **Select Mortality Factors is repealed.**

SECTION 4. Ins 50.79 (1) (f) is created to read:

Ins 50.79 (1) (f) An insurer licensed but not domiciled in this state shall provide the office of the commissioner of insurance a regulatory asset adequacy issues summary described under par. (e) upon request.

SECTION 5. Ins 50.79 (3) (a) 4. is amended to read:

Ins 50.79 (3) (a) 4. Comments on any interim results that may be of significant concern to the appointed actuary, for example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods.

SECTION 6. EFFECTIVE DATE. These changes shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 7. These sections may be enforced under ss. 601.41, 601.64, 601.65, 623.06, or ch. 645, Wis. Stats., or any other enforcement provision of chs. 600 to 646, Wis. Stats.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA–2049 (C04/2011)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707–7864
FAX: (608) 267–0372

ADMINISTRATIVE RULES – FISCAL ESTIMATE**1. Fiscal Estimate Version**

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter Title and Number

Ch. Ins. 2 Table; Ins 2.80 (4) (b) 3.; Ins 50.79 (1) (f); Ins 50.79 (3) (a) 4.

3. Subject

Reserve Requirements for Life and Fraternal Insurers and Affecting Small Business

4. State Fiscal Effect

☒ No Fiscal Effect

☐ Increase Existing Revenues

☐ Increase Costs

☐ Indeterminate

☐ Decrease Existing Revenues

☐ Yes ☒ No May be possible to absorb within agency's budget.

☐ Decrease Costs

5. Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG–S

6. Affected Ch. 20, Stats. Appropriations:

None

7. Local Government Fiscal Effect:

☒ No Fiscal Effect

☐ Increase Revenues

☐ Increase Costs

☐ Indeterminate

☐ Decrease Revenues

☐ Decrease Costs

8. Local Government Units Affected:

☐ Towns ☐ Villages ☐ Cities ☐ Counties ☐ School Districts ☐ WTCS Districts ☐ Others: None

9. Private Sector Fiscal Effect (small businesses only):

☒ No Fiscal Effect ☐ Increase Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Revenues ☐ Decrease Costs

Yes ☒ No May have significant
economic impact on a
substantial number of
small businesses

10. Types of Small Businesses Affected:

Domestic and foreign life or fraternal insurers that meet the definition of small businesses

11. Fiscal Analysis Summary

12. Long-Range Fiscal Implications

None

13. Name – Prepared by Timothy L. Cornelius	Telephone Number (608) 267-8622	Date January 15, 2014
14. Name – Analyst Reviewer	Telephone Number	Date
Signature—Secretary or Designee	Telephone Number	Date

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

Ch. Ins. 2 Table; Ins 2.80 (4) (b) 3; Ins 50.79 (3) (a) 4.

3. Subject

Reserve Requirements for Life and Fraternal Insurers and Affecting Small Business

4. Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

None

6. Fiscal Effect of Implementing the Rule

☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

☐ State's Economy ☒ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☒ Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

The proposed rule is intended to make four changes to the current regulations regarding reserve and reporting requirements for life and fraternal insurers that will modify outdated and unnecessary requirements as well as clarify ambiguous language contained in the current regulations.

First, Section Ins 2.80, Wis. Admin. Code, establishes the minimum standards for life insurance policy reserves and the method for calculating the reserves. The existing rule includes requirements for a premium deficiency reserve, under which the company can incorporate “X” factors to adjust the mortality factor to a level that is based on the company’s own mortality experience. Currently, under s. Ins 2.80 (4), Wis. Admin. Code, the X factors used in the calculation of deficiency reserves are subject to a minimum of 20% and cannot be decreased in any successive policy years. The changes contemplated for the proposed rule would remove these limits on the X factors, which the industry has demonstrated are no longer needed.

Second, under sections Ins. 50.79 (3) (a) and s. Ins 2.80 (4) (b) 3., Wis. Admin. Code, insurers are required to file an annual Regulatory Asset Adequacy Issues Summary in which they must disclose the impact of cash flow insufficiencies projected to occur during the interim periods prior to the end of the test period. The current wording is somewhat ambiguous regarding the reporting requirements with respect to deficiencies in the interim periods. The anticipated changes add clarifying language that would improve the rule by eliminating reporting inconsistencies.

Third, all licensed life and fraternal insurers must submit a confidential Regulatory Asset Adequacy Issues Summary annually to the Commissioner. Proposed changes to the language of s. Ins 50.79, Wis. Admin. Code, would not require foreign insurers (approximately 450 companies) to submit the Summary unless specifically requested by the Commissioner. This change would ease an unnecessary administrative burden on both OCI and foreign insurers.

Finally, the proposed rule would repeal the table of select mortality factors at the end of ch. Ins 2, Wis. Admin. Code, which is outdated and unnecessary. Since the original rule was adopted a more accurate table contained in a NAIC model rule has been released, and is referenced in two places in s. Ins 2.80 (4), Wis. Admin. Code, pursuant to s. 601.41 (3)(b), Wis. Stats., which specifically grants OCI the authority to cross-reference NAIC tables. The mortality factors for calculating reserves contained within sub. (4) are more accurate, and are the correct factors insurers should use for their reserve calculations. Therefore the table at the end of ch. Ins. 2, Wis. Admin. Code, should be removed as it is outdated and unnecessary, and is likely to cause confusion and incorrect reserve calculations.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

OCI solicited comments generally through publication requesting comments from the public utilizing the OCI website. In addition, OCI solicited comments from the following businesses and associations:

American Family Insurance Group; Farmers Insurance Group; Humana, Inc.; Independent Insurance Agents of Wisconsin; National Association of Insurance & Financial Advisors Wisconsin (NAIFA); Northwestern Mutual Insurance; Professional Insurance Agents of Wisconsin; Sentry Insurance; WEA Insurance; Wisconsin Association of Health Underwriters; Wisconsin Council of Life Insurers; Wisconsin Fraternal Alliance; Wisconsin Insurance Alliance; WPS Health Insurance.

No comments were received by OCI.

11. Identify the local governmental units that participated in the development of this EIA.

None

12. Summary of Rule’s Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State’s Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule changes would have no fiscal effect on the state or local governments, nor would they have any significant effect on the private sector. Although the rule changes may potentially affect licensed life and fraternal insurers, any such effect would likely be beneficial due to the more uniform, less-stringent reserve and reporting requirements. Furthermore, any effect on non-insurance businesses would be beneficial, in that the insurance regulations would be more understandable, accurate, and uniform.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed rule changes modify the reserve requirements for life and fraternal insurers, and revise and clarify the reporting requirements related to life reserves. The proposed rule changes also repeal a table that is outdated and unnecessary.

Specifically, the proposed change under Item (a) eliminates conservative limitations on factors used to calculate deficiency reserves that the industry has demonstrated are no longer needed. Under Item (b), the clarifying language added to the provision requiring the "Regulatory Asset Adequacy Issues Summary" would eliminate reporting inconsistencies. These changes would also allow Wisconsin regulations to align with the model regulations of the National Association of Insurance Commissioners (NAIC) and the regulations of 18 other states. This consistency would assist domestic insurers specifically, as a significant number of life insurers are doing business in several of the states that have implemented the NAIC model regulations.

Additionally, the changes contemplated Item (c) regarding the filing requirement under s. Ins 50.79, Wis. Admin. Code, would ease the administrative burden on the Office of the Commissioner of Insurance (OCI) and foreign insurers doing business in Wisconsin by eliminating an unnecessary filing requirement. Finally, the proposed change under Item (d) repealing the table of select mortality factors at the end of ch. Ins 2, Wis. Admin. Code, would clarify the correct mortality factors to be used in calculating reserves by removing an outdated table contained in the existing regulation.

14. Long Range Implications of Implementing the Rule

None

15. Compare With Approaches Being Used by Federal Government

The OCI is not aware of any existing or proposed federal regulations intended to address the activities to be regulated by the proposed rule changes.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: 215 ILCS 5/223 (1a) (B) contains reserve and reporting provisions comparable to Wisconsin's existing rules.

Iowa: IAC § 508.36 and § 512B.23; § 191–47.4 (508), IA Admin. Code contain reserve provisions more stringent than Wisconsin's existing rules and reporting requirements comparable to the proposed rule change.

Michigan: MCLS § 500.837 (2013) and § 500.8186 (2013), and R. 500.853, Rule 13, Mich. Admin. Code and R. 500.995, Rule 5, Mich. Admin. Code, contain reserve and reporting provisions comparable to Wisconsin's existing rules—is considering the adoption of NAIC Model Law 530 with the 2009 revisions comparable to the proposed Wisconsin rule changes.

Minnesota: Minn. R. 2747.0030 Subp. 2., Admin. Code and § 61A.258 Subd. (1), Minn. Stat. (2013) address the use of minimum standards for life insurance policy reserves, the method for calculating the reserves, and the select mortality factor tables for both basic and deficiency reserves using the 2001 CSO mortality table, comparable to Wisconsin's current law, and Minn. R. 2711.0070, Admin. Code contains reporting requirements comparable to the proposed rule change.

17. Contact Name

Louie Cornelius

18. Contact Phone Number

608–264–8113

This document can be made available in alternate formats to individuals with disabilities upon request.

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule could have an impact on small businesses, specifically life and fraternal insurers, however any impact would be minimal because few, if any, insurers meet the definition of a small business. Moreover, any impact on these small businesses would likely be beneficial since the proposed rule creates more uniform, less-stringent reserve and reporting requirements. Accordingly, OCI does not anticipate any implementation costs or additional compliance costs since the proposed rule would eliminate current reporting and reserve requirements rather than add new ones. Finally, any affect on non-insurance small businesses would be beneficial, in that the insurance regulations would be more understandable, accurate, and uniform.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

OCI reviewed the revenue and ownership structure of life and fraternal insurers and determined that the proposed rule could have an effect on small businesses, however any such effect would be minimal and likely positive. Very few, if any, insurers meet the definition of a small business, and those that might would be assisted by the more uniform, less–stringent reserve and reporting requirements. In addition, any effect on non–insurance small businesses would be beneficial, in that the insurance regulations would be more understandable, accurate, and uniform.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- ☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

N/A. Any impact of the proposed rule on small businesses would be minimal, moreover the impact would likely be beneficial since it is eliminating unnecessary reserve and reporting requirements.

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

N/A. Any impact would likely be beneficial.

5. Describe the Rule's Enforcement Provisions

The proposed changes do not add any new requirements to be enforced. However, insurers are still subject to the current reserve and reporting requirements, failure to comply with those requirements may be enforced by the Commissioner pursuant to ss. 601.41(1) and 601.64, Wis. Stat.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No

Notice of Hearing

Safety and Professional Services
Professional Services, Chs. 1—299
General Part I, Chs. 301—319
Uniform Dwelling Code, Chs. 320—325
General Part II, Chs. 326—360
Commercial Building Code, Chs. 361—366
CR 14–010

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in ss. 101.09 (3) (c), 101.147, 101.178 (3) (a), 101.63 (2) and (2m), 101.654 (1m), 101.73 (5) and (6), 101.82 (1m), 101.92 (9), 101.96 (2) (c), 101.985 (3), 145.02 (4) (a), 145.15 (2), 145.175, 227.11 (2) (a), and 440.974 (2), Wis. Stats., and interpreting ss. 101.985 (3), 227.11 (2) (a), and 440.974 (2), Wis. Stats., the Department of Safety and Professional Services will hold a public hearing at the time and place indicated below to consider an order to repeal sections SPS 132.01, 132.02, 132.025, 132.04, 133.01 (2), 134.01, 135, 305.08 (3) (b), 305.01 (4) (i), 305.01 (4) (i) (Note), Table 305.02 row 8m., Table 305.02 (Note), Table 305.06 row 8m., Table 305.06 column (5), Table 305.06 (Note), 305.125 (3) 1., 305.125 (3) 1. (Note), 305.30, 305.30 (Note); 305.90 (4) (b), 305.90 (4) (d), 305.91 (1) (a), 305.91 (1) (b), 305.91 (1) (b) (Note), 305.91 (5) (b) 1., 305.91 (5) (b) 2., 395.92 (1) (a), 305.92 (1) (b), 305.92 (1) (b) (Note), 305.92 (5) (b) 1., 305.92 (5) (b) 2., 305.92 (6) (b), 305.93 (1) (b) 1., 305.93 (1) (b) 2., 305.93 (1) (b) 2. (Note), 305.93 (5) (b) 1., 305.93 (5) (b) 2.,

305.94 (1) (a) 2., 305.94 (1) (a) 2., 305.94 (1) (b) 1., 305.94 (1) (b) 2., 305.94 (1) (b) 2. (Note), 305.94 (3) (b), 305.94 (5) (b) 1., 305.94 (5) (b) 2., 323.16 (2) (a), 332.16 (4), and 361.295 (2); to renumber sections SPS 132.05 (1) (a), 132.05 (1) (c), 132.05 (2) (a), 132.05 (2) (c), 132.05 (2) (d), 132.06, 133.01 (1), 133.01 (3), 133.02, 133.03, 133.04, 134.03, 305.315 (3) (a) 1., 305.315 (3) (a) 2., 305.315 (3) (b) 2., 323.16 (2) (b), and 323.16 (2) (c); to renumber and amend sections SPS 132.03, 132.05 (1), 132.05 (1) (b), 132.05 (2), 132.05 (2) (b), 132.05 (3), 134.02, and 134.04; to amend Chapter SPS 131 (title) and sections 131.01, 305.07 (2) (b) 1. b., 305.08 (3) (a), 305.315 (3) (b) 1., 305.315 (3) (b) 2., 305.327 (5) (b) 1., 305.33 (7) (b) 1., 305.36 (4) (b) 1., 305.43 (7) (b) 1., 305.435 (7) (b) 1., 305.44 (6) (b) 1., 305.443 (6) (b) 1., 305.447 (6) (b) 1., 305.45 (2) (c) 2., 305.51 (7) (c) 1. a., 305.51 (7) (c) 1. b., 305.52 (6) (c) 1. a., 305.52 (6) (c) 1. b., 305.54 (5) (c) 1. a., 305.54 (5) (c) 1. b., 305.56 (6) (c) 1., 305.60 (5) (c) 1., 305.61 (6) (b) 1., 305.62 (7) (b) 1., 305.625 (6) (b) 1., 305.63 (7) (b) 1., 305.64 (2) (b), 305.64 (3) (d), 305.64 (4) (c) 1., 305.64 (4) (d), 305.66 (6) (b) 1., 305.68 (7) (b) 1., 305.84 (6) (b) 1., 305.85 (6) (b) 1., 305.90 (4) (intro.), 305.90 (4) (a), 305.90 (4) (c), 305.91 (1) (intro.), 305.91 (5) (b) (intro.), 305.91 (8) (b) 1., 305.92 (1) (intro.), 305.92 (5) (b) (intro.), 305.92 (8) (b) 1., 305.93 (1) (b) (intro.), 305.93 (5) (b) (intro.), 305.93 (6) (b) 1., 305.94 (1) (intro.), 305.94 (1) (b), 305.94 (2) (intro.), 305.94 (3) (a), 305.94 (3) (a) 1., 305.94 (3) (a) 2., 305.94 (4), 305.94 (5) (b) (intro.), 305.94 (6) (a) 1., 305.94 (6) (a) 2., 305.94 (6) (b) 1., 305.94 (6) (b) 2., 305.97 (7) (c) 1., 305.99 (5) (c) 1., 305.992 (6) (b) 1., 305.993 (6) (b)

1., 305.997 (6) (b) 1., 334.36, and 334.45 (4) (b); to repeal and recreate section SPS 305.003 (15); and to create sections SPS 131.02 (4e), 131.02 (4m), 131.02 (4s), 131.02 (25m) 131 subch. I (title), 131 subch. II (title), 131 subch. III (title), 131 subch. IV, 305.09 (intro.), 305.315 (3) (c), 305.315 (3) (d), 305.315 (4), 305.64 (2) (b) (Note), 305.945, 323.16 (2) (b) (Note), 332.16 (20) (Note), 334.36 (Note), and 334.45 (4) (b) (Note), relating to licenses, certifications, and registrations of trades credentials; continuing education requirements of home inspectors; and rule changes affected by 2013 Wisconsin Act 20.

Hearing Information

Date: Monday, March 3, 2014
Time: 11:00 a.m.
Location: 1400 East Washington Avenue
 (enter at 55 North Dickinson Street)
 Room 121C
 Madison, Wisconsin

Place where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708–8935, or by email to Kathleen.Paff@wisconsin.gov. Comments must be received at or before the public hearing to be held on **March 3, 2014, at 11a.m.** to be included in the record of rule-making proceedings.

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions, and argument may also be submitted in writing without a personal appearance. All submittals must be directed to Katie Paff, Program and Policy Analyst, at Kathleen.Paff@wisconsin.gov or by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708, by email at Kathleen.Paff@wisconsin.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49d-a-8fde-046713617e9e>.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Sections 101.985 (3), 227.11 (2) (a), 440.974 (2), Wis. Stats.

Statutory authority

Sections 101.09 (3) (c), 101.147, 101.178 (3) (a), 101.63 (2) and (2m), 101.654 (1m), 101.73 (5), 101.73 (6), 101.82

(1m), 101.92 (9), 101.96 (2) (c), 101.985 (3), 145.02 (4) (a), 145.15 (2), 145.175, 227.11 (2) (a), 440.974 (2), Wis. Stats.

Explanation of agency authority

Section 101.09 (3) (c), Wis. Stats. The rule promulgated under par. (a) may require the certification or registration of persons who install, remove, clean, line, perform tightness testing on and inspect tanks and persons who perform site assessments. Any rule requiring certification or registration shall also authorize the revocation or suspension of the certification or registration.

Section 101.147, Wis. Stats. Contractor registration. (1) No person may hold himself or herself out or act as a construction contractor unless that person is registered as a construction contractor by the department. (2) The department shall promulgate rules to administer and enforce this section.

Section 101.178 (3) (a), Wis. Stats. The department shall promulgate rules for a voluntary program under which a person who engages in the business of installing or servicing heating, ventilating or air conditioning equipment may obtain certification by passing an examination developed or selected by the department.

Section 101.63 (2), Wis. Stats. Adopt rules for the certification, including provisions for suspension and revocation thereof, of inspectors for the purpose of inspecting building construction, electrical wiring, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10) of one- and 2-family dwellings under sub. (1). The rules shall specify that the department may suspend or revoke the certification of an inspector under this subsection for knowingly authorizing the issuance of a building permit to a contractor who is not in compliance with s. 101.654.

Section 101.63 (2m), Wis. Stats. Promulgate rules for certifying the financial responsibility of contractors under s. 101.654. These rules shall include rules providing for the assessment of fees upon applicants for certification of financial responsibility under s. 101.654 and for the suspension and revocation of that certification.

Section 101.654 (1m), Wis. Stats. The department shall promulgate rules establishing continuing education requirements for persons seeking to obtain a building permit under sub. (1) (a).

Section 101.73 (5), Wis. Stats. Adopt rules for the certification, including provisions for suspension and revocation thereof, of on-site inspectors of the installation of modular homes for dwellings. Persons certified as on-site inspectors may be employees of the department, a city, village, town or county or an independent agency.

Section 101.73 (6), Wis. Stats. Adopt rules for the certification, including provisions for suspension and revocation thereof, of independent inspection agencies to conduct in-plant inspections of manufacturing facilities, processes, fabrication and assembly of modular homes for dwellings and to certify compliance with this subchapter.

Section 101.82 (1m), Wis. Stats. Promulgate rules that establish criteria and procedures for the registration of beginning electricians and for the examination and licensing of different types of electricians, including journeymen electricians and master electricians.

Section 101.82 (1v), Wis. Stats. Promulgate rules that establish criteria and procedures for the licensing of electrical contractors.

Section 101.92 (9), Wis. Stats. Shall promulgate rules and establish standards necessary to carry out the purposes of ss. 101.951 and 101.952.

Section 101.96 (2) (c), Wis. Stats. The department, by rule shall establish the term of installers' licenses and the conditions under which the department may revoke or suspend installers' licenses. The department shall establish an initial installer's license fee and license renewal fee by rule under s. 101.19.

Section 101.985 (3), Wis. Stats. The department shall issue an elevator inspector license to each individual who demonstrates to the satisfaction of the department that the individual is adequately qualified and able to provide elevator inspection services. The department shall promulgate rules that establish the qualifications required for issuance of an elevator inspector license.

Section 145.02 (4) (a), Wis. Stats. The department shall prescribe rules as to the qualifications, examination and licensing of master and journeyman plumbers and restricted plumber licensees, for the licensing of utility contractors, for the registration of plumbing apprentices and pipe layers and for the registration and training of registered learners. The plumbers council, created under s. 15.407 (16), shall advise the department in formulating the rules. (b) The department may promulgate rules for the qualification and registration of cross-connection control testers.

Section 145.15 (2), Wis. Stats. The department shall prescribe rules as to the qualifications, examination and licensing of journeymen automatic fire sprinkler system fitters and automatic fire sprinkler contractors and for the registration and training of automatic fire sprinkler system apprentices. The automatic fire sprinkler system contractors and journeymen council, created under s. 15.407 (17), shall advise the department in formulating the rules.

Section 145.175, Wis. Stats. An automatic fire sprinkler-maintenance only registration certificate is required before any business establishment may maintain or repair existing automatic fire sprinkler systems in its physical facilities. The department shall, by rule, specify the qualifications for issuing an automatic fire sprinkler-maintenance only registration certificate. The department shall, by rule, specify the activities in which a person holding a registration certificate under this section may engage.

Section 227.11 (2) (a), Wis. Stats. Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

Section 440.974 (2), Wis. Stats. The department shall promulgate rules establishing continuing education requirements for individuals registered under this subchapter. The rules promulgated under this subsection shall require the completion of at least 20 hours of continuing education during each calendar year.

Related statute or rule

Sections 440.08 (2) (a) 38g. and (3) (a), 440.972, 440.973, 440.974, 440.975, 440.978, and 440.979, Wis. Stats.

Plain language analysis

A recent audit revealed confusion among registered home inspectors in Wisconsin with regards to the continuing

education requirements for registration renewal. This proposed rule change would provide clarity for registered home inspectors. The proposed rule change would also repeal rules that are no longer effective, consolidate the home inspector chapters into a single chapter, and incorporate rule changes to ch. SPS 135 in light of changes to s. 440.974 (2), Stats., under 2013 Senate Bill 345.

Chapter SPS 305 establishes licensing, certification, and registration requirements for a variety of building-related trades, both for individuals and businesses. Current rules require most renewal applicants to complete all continuing education requirements 3 months prior to the expiration of the license, certification or registration. The proposed rule change would align the renewal and continuing education cycle allowing applicants to complete continuing education requirements up to the expiration date of the credential.

Individuals seeking to renew a dwelling contractor qualifier certification must complete at least 12 hours of continuing education approved by the Department. However, Department standards for approval of continuing education courses are unclear often resulting in confusion and wasted resources for potential course providers. The proposed rule change would provide greater clarity with regards to Department standards for course approval facilitating a more transparent and consistent approval process.

The ASME QEI Accreditation Program accredits organizations that certify elevator inspectors in accordance with the ASME QEI-1 Standard. Department rule, s. SPS 305.64 (2) (b), currently requires applicants for an elevator inspector license to submit evidence of certification by an American Society of Mechanical Engineers (ASME) accredited organization as a qualified elevator inspector (QEI). ASME is discontinuing the QEI Accreditation Program. All accreditations will be withdrawn on January 1, 2014. The proposed rule change removes reference to ASME accreditation and requires applicants for an elevator inspector license to submit evidence of certification based on the QEI-1 standard from an independent organization acceptable to the Department.

Current Department administrative rules require applicants seeking to obtain a journeyman plumber-restricted appliance license to take and pass an examination administered by the Department. The proposed rule change would allow applicants the option of taking an examination administered by an entity approved by the Department. The plumbing activities performed by a licensed journeyman plumber-restricted appliance are limited to the installation and modification of water heaters, water softeners, water treatment devices, and other items in connection with an existing water supply system which do not required direct connection to the drain system. The proposed rule change would also repeal rules that are no longer effective and reorganize rules related to the two different restricted plumbing licenses for greater clarity including separating the rules for journeyman plumber-restricted appliance license holders into a separate rule section.

Summary of, and comparison with, existing or proposed federal regulation

None.

Comparison with rules in adjacent states

Illinois: All home inspectors are required to complete the equivalent of 6 hours of continuing education per year or 12 hours per renewal from an education provider approved and licensed by the Illinois Department of Financial and

Professional Regulation. Proof of continuing education is not required for renewal. However, the Department may require additional evidence demonstrating compliance with the continuing education requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance upon request.

A review of the rules and statutes pertaining to the renewal of trades credentials in Illinois found no instance of a continuing education cycle that does not align with the credential renewal cycle (41 Ill. Adm. Code 1000.110 Elevator Safety Rules; 68 Ill. Adm. Code 750.500 Plumbers Licensing Code; 225 ILCS 317/35 Sec. 35 (b) Fire Sprinkler Contractor Licensing).

Dwelling contractors are not regulated by the state of Illinois.

In order to be licensed as an elevator inspector in Illinois, the applicant must have attained QEI certification and prove to the satisfaction of the Office of the State Fire Marshall that he or she meets the current ASME QEI-1 Standard for the Qualifications of Elevator Inspectors [225 ILCS 312/50, 41 Ill. Adm. Code Section 1000.80(e)].

Illinois does not offer a plumber-restricted license. Individuals seeking a plumbing license must take a state provided examination (68 Ill. Adm. Code 750).

Iowa: Home inspectors are not regulated by the State of Iowa.

A review of the rules and statutes pertaining to the renewal of trades credentials in Iowa found no instance of a continuing education cycle that does not align with the credential renewal cycle (Iowa Code 641- 30.2 Plumbing and Mechanical Systems Board; and Iowa Code 661-505.210 Electrician and Electrical Contractor Licensing Program).

All contractors doing business in Iowa who make more than \$2,000 a year must be registered with the Iowa Division of Labor. "Construction" is defined very broadly to include not only typical "construction" work, but also companies or individuals who perform electrical, plumbing, roofing, or house painting work, as well as installation of landscaping, windows, cable, elevators and other activities. Annual renewal is required. Coursework is not required for initial registration. Continuing education is not required for renewal (Chapter 91C of the Iowa Code).

Applicants for an elevator inspector license in Iowa must be a certified elevator inspector (CEI) pursuant to ASME QEI-1. A copy of the applicant's CEI card is required for a complete application [Code of Iowa 89A.6 and 875 Iowa Administrative Code 71.12].

All applicants for plumbing-related licenses in Iowa must take a board approved, state licensing examination written and proctored by a board-approved testing agency (Iowa Code Ch. 641-29.6). Iowa does not offer a credential equivalent to the journeyman plumber-restricted appliance license.

Michigan: Home inspectors are not regulated by the State of Michigan.

A review of the rules and statutes pertaining to the renewal of trades credentials in Michigan found no instance of a continuing education cycle that does not align with the credential renewal cycle (MI Code 338.3535 Sec.25 (3) Journey plumber's license).

In Michigan, an applicant for a Residential Builder or Maintenance & Alteration Contractor license must complete

60 hours of approved precicensure education prior to taking the examination or submitting a license application to the Department. All precicensure education courses must be approved by the Department. The 60 hours of approved precicensure courses must include at least six hours in each of the following subjects: (1) Business Management, Estimating, and Job Costing; (2) Design and Building Science; (3) Contracts, Liability, and Risk Management; (4) Marketing and Sales; (5) Project Management and Scheduling; (6) The Michigan Residential Code; (7) MIOSHA Construction Safety Standards; and, (8) The remaining 18 hours may come from other topics on the approved course list.

Applicants originally licensed after January 1, 2009 are required to complete the following every 3 years for the first 6 years of licensure: (1) A minimum of 3 hours each year; and (2) A total of 21 hours within the first 3 years of licensure and an additional 21 hours during the second 3-year license cycle consisting of 1 hour covering building codes and laws related to the licensed occupation, 1 hour covering safety, 1 hour covering changes in construction and business management laws, and 18 hours of "other topics" (MCL 339.2404b (2)).

To fulfill the continuing competency requirement, applicants can complete any of the following courses and activities: (1) Teaching or successfully completing any approved precicensure course, Bureau of Construction Codes code update course, MIOSHA safety course, or college course; (2) Successfully completing a comprehensive test administered by the Department or the Department's third-party testing contractor; (3) Participation in a school-sponsored mentoring program; (4) Presenting or attending a seminar, in-house course, workshop, technical presentation, or training made at a meeting, convention or conference by a trade association, research institute, risk management entity, manufacturer, supplier, governmental agency, consulting agency, or other entity; (4) Publication of an article in a trade journal or a regional magazine as an expert in the field; (5) Active participation in an occupational or technical society, state advisory or review committee; (6) Serving as a member or attending a state Residential Builders' and Maintenance & Alteration Contractors' Board meeting or a state Construction Code Commission meeting; (7) Participating in a code hearing conducted by the International Code Council or Bureau of Construction Codes; (8) Participating in research conducted in conjunction with a college or university, trade association, or manufacturer; or (9) Any continuing competency course or activity may be earned through distance learning (2011 MR 3, R 338.1564 (1) and 2011 MR 3, R 338.1566 (3)).

To meet the 18 hours of "other topics" relevant to the licensed occupation, applicants can complete courses and activities of the following subjects: (1) Business management, estimating, and job costing; (2) Design and building science; (3) Contracts, liability, and risk management; (4) Marketing and sales; (5) Project management and scheduling; (6) Carpentry, concrete, swimming pool installation, waterproofing a basement, excavation, insulation work, masonry work, painting and decorating, roofing, siding and gutters, screen or storm sash insulation, tile and marble work, or house wrecking; (7) Accounting and safekeeping for monies received from a customer, including the requirements of building contract fund; (8) Accounting, finance, and taxes; (9) Personnel Management; (10) Communication and customer service;

(11) Environmental or land use analysis; (12) Life safety; (13) “Green” building; (14) Zoning and governance policies and procedures; or (15) Mold, lead, asbestos, or other hazardous material mitigation (2011 MR 3, R 338.1564 (2)).

All elevator inspectors must be certified competent by the Elevator Safety Board of the Michigan Department of Licensing and Regulatory Affairs. There are two types of elevator inspectors: general elevator inspectors who are employed by the State and special elevator inspectors who are employed by insurance companies or municipalities. In addition to being certified, special elevator inspectors must also be commissioned by the Department. Initial commissions for special elevator inspectors are valid for one year. These commissions must be renewed annually.

Applicants for both the general elevator inspector and special elevator inspector certifications must pass (with a score of 70%) the two-part examination of the Elevator Safety Board [Authority: MI Statutes 1967 PA 227]. Applicants may prepare for the examination by studying the ASME A17.1–2007, Safety Code for Elevators and Escalators; ASME A18.1–2008, Safety Standard for Platform Lifts and Stairway Chairlifts; the Michigan Elevator Laws and Rules; 1967 PA 227; 1976 PA 333; the current Michigan Electrical Code, NFPA 70; ASME A90.1–2003, Safety Standards for Belt Manlifts; and the ANSI A10.4–2007, Safety Requirements for Personnel Hoists.

Individuals seeking a journey plumber’s license in Michigan must pass an examination provided by the State Plumbing Board and the Department of Licensing and Regulatory Affairs (MI PA 733 of 2002, Sections 338.3533 and 338.3535). Examinations are currently provided and administered by the Department of Licensing and Regulatory Affairs. Michigan does not offer a credential equivalent to the journeyman plumber–restricted appliance license.

Minnesota: Home inspectors are not regulated by the State of Minnesota.

A review of the rules and statutes pertaining to the renewal of trades credentials in Minnesota found no instance of a continuing education cycle that does not align with the credential renewal cycle (MN Rules 4716.0205 – Plumber Licensing and Apprentice Registration; and MN Rules 3800.3602 – Board of Electricity Licensing).

Anyone who contracts or offers to contract with a homeowner to construct or improve “residential real estate” must be licensed as a residential building contractor or a residential remodeler unless they meet one of the specified exemptions. A residential building contractor can build new homes and work on existing structures, whereas a remodeler can only work on existing structures.

Licenses are issued to the residential contracting business entity, though each business entity must have an individual who acts as the “qualifying person” for the company’s license. In order to be a qualifying person, the individual must be an owner or officer of the company or a managing employee of the company and must pass a written exam.

To renew a license, the company’s qualifying person must complete 14 hours of appropriate and related knowledge in residential construction, including applicable federal and state laws, rules, and regulations at an approved continuing education program during the biennial renewal cycle. Course content must demonstrate significant intellectual or practical content and deal with matters directly related to residential construction, workforce safety, or the business of running a

company in the residential construction industry. One of the 14 hours must include instruction related to energy codes or energy conservation measures applicable to residential structures. Courses not approved by DLI may be accepted for credit by submitting an individual course application and a certificate of completion along with all course materials (Minnesota Statutes 326B.0981, 326B.821).

Current Minnesota rules specify that any person performing elevator inspections hired after January 29, 2007, must be certified by an ASME accredited organization as a qualified elevator inspector (QEI) within 18 months of the employment start date [MN Rules 1307.0067 subp. 13.].

An applicant for a plumber’s license in Minnesota must pass an examination given by the provided by the Department of Labor and Industry in March and September of each year (MN Rules 4716.0020). Minnesota does not offer a credential equivalent to the journeyman plumber–restricted appliance license.

Summary of factual data and analytical methodologies

The proposed rule change provides clarity for registered home inspectors with regards to continuing education requirements for registration renewal. The proposed rule change is based on the results from a recent audit conducted by the Department assessing compliance with the continuing education requirements in ch. SPS 135.

Department rules were evaluated to find opportunities to increase efficiencies in the processes relating to the issuance and renewal of credentials. It was determined that the credential renewal process could be made less burdensome while maintaining professional integrity by aligning the continuing education and renewal cycles.

Department standards for approval of continuing education courses required to renew a dwelling contractor qualifier certification are unclear resulting in confusion and wasted resources for potential course providers. The proposed rule change would provide greater clarity with regards to Department standards for course approval facilitating a more transparent and consistent approval process. Expert advice from the Contractor Certification Council informed the proposed rule change.

Section SPS 305.64 (2) (b) currently requires applicants for elevator inspector licensure to provide proof of certification from an ASME accredited organization. Since ASME will be discontinuing the QEI accreditation program, this change updates the rule to reflect that applicants will be required to provide evidence of certification from a Department approved independent agency.

The proposed rule change provides applicants seeking to obtain a journeyman plumber–restricted license with more testing options to receive licensure.

Adjacent states’ requirements were also reviewed.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis

The rule was posted currently for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

Agency Contact Person

Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

SPS 131, 132, 133, 134, 135, 305, 323, 332, 334, 361

3. Subject

Relating to trades licenses, certifications, and registrations of trades credentials; continuing education requirements of home inspectors; and rule changes affected by 2013 Wisconsin Act 20

4. Fund Sources Affected

☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165 (2) (j)

6. Fiscal Effect of Implementing the Rule

☐ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☒ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

A recent audit revealed confusion among registered home inspectors in Wisconsin with regards to the continuing education requirements for registration renewal. This proposed rule change would provide clarity for registered home inspectors.

Chapter SPS 305 establishes licensing, certification, and registration requirements for a variety of building–related trades, both for individuals and businesses. Current rules require most renewal applicants to complete all continuing education requirements 3 months prior to the expiration of the license, certification or registration. The proposed rule change would align the renewal and continuing education cycle allowing applicants to complete continuing education requirements up to the expiration date of the credential.

Department standards for approval of continuing education courses required to renew a dwelling contractor qualifier certification are unclear resulting in confusion and wasted resources for potential course providers.

The ASME QEI Accreditation Program accredits organizations that certify elevator inspectors in accordance with the ASME QEI–1 Standard. Department rule, SPS 305.64 (2) (b), currently requires applicants for an elevator inspector license to submit evidence of certification by an American Society of Mechanical Engineers (ASME) accredited organization as a qualified elevator inspector (QEI). ASME is discontinuing the QEI Accreditation Program. The proposed rule change removes reference to ASME accreditation and requires applicants for an elevator inspector license to submit evidence of certification based on the QEI–1 standard from an independent organization acceptable to the Department.

Current Department administrative rules require applicants seeking to obtain a journeyman plumber–restricted appliance license to take and pass an examination administered by the Department. The proposed rule change would allow applicants the option of taking an examination administered by an entity approved by the Department. The proposed rule change would also repeal rules that are no longer effective and reorganize rules related to the two different restricted plumbing licenses for greater clarity including separating the rules for journeyman plumber–restricted appliance license holders into a separate rule section.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

11. Identify the local governmental units that participated in the development of this EIA.

None. This rule does not affect local government units.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule will not have an economic or fiscal impact on businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed rule change provides clarity for registered home inspectors with regards to continuing education requirements for registration renewal. The proposed rule change is based on the results from a recent audit conducted by the Department assessing compliance with the continuing education requirements in ch. SPS 135. By not amending the rules in this manner, home inspectors may inadvertently fail to meet the requirements and as a result may not be able to practice as home inspectors.

Department rules were evaluated to find opportunities to increase efficiencies in the processes relating to the issuance and renewal of credentials. It was determined that the credential renewal process could be made less burdensome while maintaining professional integrity by aligning the continuing education and renewal cycles.

The proposed rule change would provide greater clarity with regards to Department standards for course approval facilitating a more transparent and consistent approval process.

Implementing this rule provides clarity with regards to licensure requirements for elevator inspectors once ASME discontinues its accreditation program.

The proposed rule change would provide more exam options for the licensed journeyman plumber–restricted appliance credential.

14. Long Range Implications of Implementing the Rule

Implementing the rule would provide for a less burdensome and more transparent credential application and renewal process for trades professionals and home inspectors in the future.

15. Compare With Approaches Being Used by Federal Government

None.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

A review of the rules and statutes pertaining to the renewal of trades credentials in Illinois, Iowa, Michigan, and Minnesota found no instance of a continuing education cycle that does not align with the credential renewal cycle.

Michigan and Minnesota specify the approved topic areas for pre-licensure and continuing competency courses for dwelling contractor qualifiers. Applicants in these states must complete a certain number of hours in specific topic areas and are allowed to take other courses in a variety of other topic areas. In Iowa, coursework is not required for initial registration or renewal for dwelling contractor qualifiers. The state of Illinois does not regulate dwelling contractor qualifiers.

Illinois, Iowa and Michigan have not yet updated their code to reflect the discontinuation of the ASME QEI Accreditation Program. The Department of Licensing and Regulatory Affairs directly certifies elevator inspectors in Michigan.

17. Contact Name

Katie Paff

18. Contact Phone Number

608-261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.

Notice of Hearing

Safety and Professional Services — Controlled Substances Board

CR 14-009

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Controlled Substances Board in s. 961.335 (8), Wis. Stats., and interpreting s. 961.335, Wis. Stats., the Controlled Substances Board will hold a public hearing at the time and place indicated below to consider an order to create section CSB 3.045, relating to granting a limited special use authorization and denial of a special use authorization.

Hearing Information

Date: Tuesday, March 4, 2014
Time: 9:30 a.m.
Location: 1400 East Washington Avenue
 (enter at 55 North Dickinson Street)
 Room 121A
 Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Place where Comments are to be Submitted and Deadline For Submission

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Sharon.Henes@wisconsin.gov. Comments must be received

at or before the public hearing to be held on **March 4, 2014**, to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708, or by email at Sharon.Henes@wisconsin.gov.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 961.335, Wis. Stats.

Statutory authority

Section 961.335 (8), Wis. Stats.

Explanation of agency authority

The controlled substances board may promulgate rules relating to the granting of special use permits including, but not limited to, requirements for the keeping and disclosure of records, filing of applications, and suspension or revocation of permits.

Related statute or rule

Section 961.335, Wis. Stats., and ch. CSB 3, Wis. Admin. Code

Plain language analysis

The proposed rule states the basis for denying or limiting a special use authorization which is based upon consideration of public health and safety. It includes consideration of the following: an act which causes a violation which would result in suspension or revocation under current rules; making false statements on an application; violating federal or state statutes related to have the ability to have controlled substances special use and an act which shows the person would be unable to safely use the SUA due to alcohol or other substance use.

Summary of, and comparison with, existing or proposed federal regulation

Federal regulations requires any person who possesses, manufactures, distributes or dispenses any controlled

substances to register with the U.S. Department of Justice, Drug Enforcement Administration, Office of Diversion Control.

The proposed rule included the criteria used by the federal government in granting/denying a DEA registration because once the special use authorization permit is granted, the person would also need DEA registration.

Comparison with rules in adjacent states

Illinois: In Illinois a registration to manufacture, distribute, or dispense a controlled substance or purchase, store, or administer euthanasia drugs may be denied, refused renewal, suspended or revoked if a person: provided false or fraudulent material information in any application; has been convicted of a felon related to any controlled substance; has had their federal DEA registration suspended or revoked; has been convicted of bribery, perjury or other infamous crime; violated any provision of the controlled substances act; or failed to provide effective controls against the diversion of controlled substances in other than legitimate medical, scientific or industrial channels.

Iowa: In Iowa, a registration to manufacture, distribute, dispense, prescribe, import or export, conduct research or instructional activities or conducts chemical analysis with controlled substances in Iowa may be denied if the board determines that the issuance of the registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors: maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific or industrial channels; compliance with applicable state and local law; any convictions related to any controlled substance; past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion; furnishing false or fraudulent material in any application for registration; suspension or revocation of the federal DEA registration; and any other factors relevant to and consistent with the public health and safety.

Michigan: Michigan has 7 different licenses for controlled substances based upon the purpose of the applicant. The license shall be granted unless the issuance of the license would be inconsistent with the public interest. In determining the public interest, the following shall be considered: maintenance of effective controls against diversion to other than legitimate and professionally recognized therapeutic, scientific, or industrial channels;

compliance with applicable state and local law; conviction relating to a controlled substance; past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion; furnishing false or fraudulent material in an application for a controlled substance license; suspension or revocation of the federal dea registration; and any other factor relevant to and consistent with the public health and safety.

Minnesota: In Minnesota, a person who engages in research, teaching or educational projects involving the use, study or testing of controlled substances is required to apply for a registration permit. The board may deny, suspend, revoke, or refuse to renew any registration based upon the following: fraud or deception in connection with securing the registration; habitual indulgence in the use of narcotics, stimulants, or depressant drugs or habitual indulgence in intoxicating liquors in a manner which could cause conduct endangering public health; unprofessional conduct or conduct endangering public health; gross immorality; conviction of theft of drugs or the unauthorized use, possession or sale thereof; violation of the provisions of the rules of the board;

Summary of factual data and analytical methodologies

The proposed rule states the basis for denying or limiting a special use authorization which is based upon consideration of public health and safety.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis

This rule was posted for economic impact comments for a period of 14 days and none were received.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary

This rule does not have an impact on small business.

Agency Contact Person

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

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FAX: (608) 267-0372

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

CSB 3.045

3. Subject

Granting a limited special use authorization and denial of a special use authorization

4. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG–S	5. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)
6. Fiscal Effect of Implementing the Rule <div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate </div> <div> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div> <input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency's Budget <input type="checkbox"/> Decrease Cost </div> </div>	
7. The Rule Will Impact the Following (Check All That Apply) <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> State's Economy <input type="checkbox"/> Local Government Units </div> <div> <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A) </div> </div>	
8. Would Implementation and Compliance Costs Be Greater Than \$20 million? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9. Policy Problem Addressed by the Rule The current rules do not provide a basis for which the controlled substances board may exercise its discretion and deny a person a special use authorization or grant a limited special use authorization.	
10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments. This rule was posted for economic comments for a period of 14 days and no comments were received.	
11. Identify the local governmental units that participated in the development of this EIA. None	
12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) None.	
13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing the rule is to give the applicant notice of the basis for which a denial or granting of a limited special use authorization may occur.	
14. Long Range Implications of Implementing the Rule The long range benefit is for applicants to have notice of the basis for which a denial or limited special use authorization may occur.	
15. Compare With Approaches Being Used by Federal Government The federal regulations require any person who possesses, manufactures, distributes or dispenses any controlled substances to register with the U.S. Department of Justice, Drug Enforcement Administration, Office of Diversion Control. A DEA registration may be denied for the following: providing false information on an application, conviction of a law relating to controlled substances, having a state license has been disciplined or has committed acts would render registration inconsistent with the public interest.	
16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota) Illinois, Iowa, Michigan and Minnesota list reasons for a denial of a registration or license related to controlled substances similar to Wisconsin's special use authorization permit.	
17. Contact Name Sharon Henes	18. Contact Phone Number (608) 261–2377

Notice of Hearing

Safety and Professional Services — Dentistry Examining Board CR 14–011

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Dentistry Examining Board in ss. 15.08 (5) (b) and 227.11 (2) (a), Wis. Stats., and interpreting ss. 146.81 and 447.02, Wis. Stats., the Dentistry Examining Board will hold a public hearing at the time and place indicated below to consider an order to create Chapter DE 8, relating to patient dental records.

Hearing Information

Date: Wednesday, March 5, 2014
Time: 8:30 a.m.
Location: 1400 East Washington Avenue
 (enter at 55 North Dickenson Street)
 Room 121A
 Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation, but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708–8366. Written comments must be received at or before the public hearing to be included in the record of rule–making proceedings.

Place where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Jean MacCubbin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708–8366, or by email to jean.maccubbin@wisconsin.gov. Comments must be received at or before the public hearing to be held on **March 5, 2014**, or by email to be included in the record of rule–making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Jean MacCubbin, Administrative rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708–8366, by email at jean.maccubbin@wisconsin.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Sections 146.81 (1) and (4) and 447.02, Stats.

Statutory authority

Sections 15.08 (5) (b) and 227.11 (2) (a), Stats.

Explanation of agency authority

Section 15.08 (5) (b), Stats., requires all examining boards to “...promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 227.11 (2) (a), Stats., authorizes all agencies to promulgate rules interpreting the statutes it enforces or administers, when deemed necessary to effectuate the purpose of such statutes.

Related statute or rule

Section 146.81 (1) and (4), Stats.

Plain language analysis

The proposed rule is to outline the minimum requirements for patient dental records. The rule considers ss. 146.81 (1) and (4), Stats., whereby dentist is defined as a healthcare provider and consequently required to maintain patient health records as specified in s. 146.81 (4), Stats. No additional requirements are proposed in this newly created chapter.

SECTION 1. This section creates a new chapter, DE 8 patient dental records and substantially mirrors the patient health records as specified in ch. Med 21, Wisc. Admin. Code. Specific areas of compliance include: retention, confidentiality, destruction and falsification of records.

SECTION 2. This section identifies when in the rule–making process the rule shall become effective.

Summary of, and comparison with, existing or proposed federal regulation

An Internet–based search of the U.S. Code and Federal Register did not reveal any laws or proposals related to patient dental records, with the exception of the move to electronic records for Medicaid patients in 2016.

Comparison with rules in adjacent states

An Internet–based search of the four adjacent states revealed the following:

Illinois: In Illinois Department of Financial and Professional Regulation oversees dentists; no rules requiring patient dental records were found.

Iowa: In Iowa, chapter 27 of the Iowa code, 650–27.11 (153,272C), relates to record keeping. Patient dental records must be maintained for a minimum of six years after the date of last examination, prescription, or treatment and for a minor for 6 years after the age of majority. . Similar to other states, when electronic records are kept, a duplicate hard copy record or use of an unalterable electronic record must be maintained.

Michigan: In Michigan the Board of Dentistry rule, 1120 (R 338.11101 – 338.11821), requires records to be maintained for 10 years after the last treatment. In addition charting of dental procedures and a listing of medications administered are two additional requirements unlike proposed in this rule.

Minnesota: In Minnesota, the related rule is 3100.9600, record keeping. This rule requires records to be maintained for 7 years after the last treatment. In the case of a minor patient, the records must be maintained for 7 years beyond the age of majority. In addition an emergency contact, information related to any insurance coverage, and providing an electronic backup are three additional requirements unlike proposed in this rule.

Summary of factual data and analytical methodologies

No factual data and analytical methodologies were used to draft these rules.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis

The issue of patient dental records was raised in the context of not having a retention policy and the impact on associated costs related to the amount of storage dentist and firms are currently are maintaining. Section 146.81 (4), Stats., provides a period for destruction of records 5 years after the date of the last entry, or for such longer period as may be otherwise required by law.

Pursuant to s. IV, 3. a., EO # 50, the rules herein were posted on both the state's and the department's administrative rules websites for 14 days in order to solicit comments regarding the rule's potential economic impact on businesses, business sectors, professional associations, local government units, or potentially interested parties.

It is expected that this proposed rule will result in a decrease expense at least in the cost of hard-copy record

storage. No specific data was collected or analyzed to come to this conclusion.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Environmental Assessment/Statement [if required]:

N/A

Agency Contact Person

Jean MacCubbin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-266-0955 or telecommunications relay at 711; email at Jean.MacCubbin@wisconsin.gov.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
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ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

Ch. DE 8, Patient Dental Records

3. Subject

Dental Patient Records; record Retention, Record Guidelines

4. Fund Sources Affected

☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165(1)(g)

6. Fiscal Effect of Implementing the Rule

☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

Currently there are no guidelines or policies on patient dental records retention in chs. DE 1 to 13. Licensees report that hard copy retention of records requires storage and in some cases, off–site storage. Electronic record storage is an option and hard–copy storage could be reduced depending on retention policies. In both cases, a reduction in cost is evitable in the long–term.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

Licensed dentists and dental firms.

11. Identify the local governmental units that participated in the development of this EIA.

None known.

12. Summary of Rule’s Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State’s Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

There are no known adverse economic impacts on these specific businesses.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The rule considers s. 146.81 (4), Stats., patient health records, making the rules under the authority of the Dentistry Examining Board in compliance with state Statutes. An option would be to continue without guidelines on patient records.

14. Long Range Implications of Implementing the Rule

The overhead cost of hard copy record storage is expected to be reduced over time.

15. Compare With Approaches Being Used by Federal Government

None found.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

With the exception of the state of Illinois, the three adjacent states require dental records retained for periods of 5, 7 or 10 years.

17. Contact Name Jean MacCubbin	18. Contact Phone Number 608.266.0955
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This document can be made available in alternate formats to individuals with disabilities upon request.

Submittal of Proposed Rules to Legislature

Please check the Bulletin of Proceedings — Administrative Rules for further information on a particular rule.

Insurance **CR 13-044**

On January 17, 2014, the Office of the Commissioner of Insurance submitted a rule in final draft form to the chief clerk of each house of the legislature, pursuant to s. 227.19 (2), Stats. The rule revises sections Ins 17.01 and 17.28 (3) (c) and (6), relating to the injured patients and families compensation fund and annual fund and mediation panel fees and ISO code amendments for the fiscal year beginning July 1, 2013 and affecting small business.

The rule was approved by the governor on January 8, 2014.

Revenue **CR 13-095**

On January 22, 2014, the Department of Revenue hand-delivered a proposed rule in final draft form to the Chief Clerks of the Assembly and Senate. The proposed rule revises section Tax 11.93, relating to sales tax filing frequency.

This rule was approved by the Governor on January 14, 2014.

Rule Orders Filed with the Legislative Reference Bureau

The following administrative rule orders have been filed with the Legislative Reference Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Legislative Reference Bureau at bruce.hoesly@legis.wisconsin.gov or (608) 266–7590 for updated information on the effective dates for the listed rule orders.

Natural Resources

Fish, Game, etc., Chs. 1—

CR 13–052

(DNR # WM–06–13)

An order of the Wisconsin Natural Resources Board to repeal sections NR 10.06 (9) (b) and 10.31 (1) (a); to amend sections NR 10.001 (9w), 10.01 (1) (v), and 10.125 (3) (intro.) and (4) (a); to repeal and recreate sections NR 10.01 (1) (b) to (u), 10.12 (3) (c), and 10.31 (3) (a); and to create sections NR 10.12 (3) (e) and 10.125 (2) (b) 3., relating to migratory bird hunting regulations.

Effective 4–1–14

Safety and Professional Services

Plumbing, Chs. 381—387

CR 13–062

An order of the Department of Safety and Professional Services to amend sections SPS 381.01 (141), 381.20 Table 381.20–11 (partial) line 6., 384.20 (2) (b) (Note), 384.30 (4) (intro.), and 384.40 (8) (a) and (d); and create sections SPS 381.01 (141) (c) (Note) and 381.20 Table 381.20–11 (partial) line 7., relating to U.S. EPA lead reduction rule, Safe Drinking Water Act amendments of 2011.

Effective 3–1–14

Safety and Professional Services — Medical Examining Board

CR 12–005

An order of the Medical Examining Board to repeal section Med 8.08; to renumber section Med 8.01; to amend sections Med 8.05 (2) (b) 7. and (c) and 8.07 (1), (2) (a), (e), and (i); to repeal and recreate section Med 8.10; and to create sections Med 8.01 (2), 8.05 (2) (e), and 8.07 (3), relating to physician assistant employment requirements and supervising physician responsibilities.

Effective 3–1–14

Safety and Professional Services — Pharmacy Examining Board

CR 13–065

An order of the Pharmacy Examining Board to repeal sections Phar 18.02 (22) and 18.06 (4) to (6) and (9); renumber section Phar 18.06 (7) and (8) to 18.06 (4) and (5); amend sections Phar 18.02 (7), (16), and (17), 18.03 (intro.), 18.04 (1) (b) and (e) and (3) (b), (d), (i), and (k), 18.05 (2), 18.06 (1) to (3) (intro.) and (4); and create section Phar 18.02 (3m) and (13e), relating to the prescription drug monitoring program (PDMP) and the exclusion of veterinarians from reporting.

Effective 3–1–14

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